

United States
2
Circuit Court of Appeals
For the Ninth Circuit.

NATIONAL LABOR RELATIONS BOARD,
Petitioner,
vs.

J. G. BOSWELL COMPANY and CORCORAN
TELEPHONE EXCHANGE,
Respondents.

Transcript of Record

In Seven Volumes

VOLUME IV

Pages 1451 to 1938

FILED

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PAUL P. O'BRIEN,
CLERK

Upon Petition for Enforcement of An Order of the
National Labor Relations Board

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Upon Petition for Enforcement of An Order of the
National Labor Relations Board

(Testimony of E. C. Powell.)

BOSWELL'S EXHIBIT No.6

(Envelope)

J. G. Boswell Company,
Corcoran, California

Registered Mail Return Receipt Requested.

Addressed to: Mr. E. C. Powell, Corcoran, California.

(Stamped): Registered No. 535.

(Stamped on Reverse Side): Corcoran, Calif.,
Nov. 28, 1938.

Home Office,
Los Angeles, California

J. G. BOSWELL COMPANY
Cotton Merchants and Manufacturers
of Cottonseed Products

Corcoran, California

November 28, 1938.

Registered Mail Return Receipt Requested.

Mr. E. C. Powell,
Corcoran, Calif.

Dear Sir:

The last job you had with this Company was in the capacity as helper in the Warehouse. As you know, this was Fred Armenta's regular job but at that time he was not working because of injury. Fred Armenta has now recovered and has gone back

(Testimony of E. C. Powell.)

on his regular job and we will not need your further services at this time.

You may secure your closing pay check by calling for same at the usual place in our Corcoran office.

Yours very truly,

J. G. BOSWELL COMPANY

LOUIS T. ROBINSON

[Endorsed]: Filed 5/25/39.

Q. (By Mr. Clark): Now, I call your attention, Mr. Powell, to the fact that this letter is dated November 20th, 1938, and that the envelope is post marked November 28th, 1938, at Corcoran, and after calling your attention to those facts, I will ask you whether or not the conversation with Mr. Gordon Hammond, to which you refer, did not occur after November 28th instead of on November 20th?

A. One conversation after November 28th, after I received [808] that letter.

Q. Yes.

Well, is it your testimony that also at this conversation after November 28th, the same comments with respect to the Union being "hooey" and simply being a bunch of the fellows claiming something they couldn't back up, were made by Mr. Hammond?

A. There was expressions to that effect made, yes, after November 28th.

Q. All right.

So that, if I understand your testimony correctly, Mr. Witness, that expression or substantially it,

(Testimony of E. C. Powell.)

was made to you by Mr. Hammond on the morning of November 17th, on or about November 20th and also sometime subsequent to November 20th, is that right?

A. The expressions were made several times by Mr. Gordon Hammond.

Q. And each one of those conversations was a separate and distinct occurrence, is that true?

A. I would think so.

Q. All right.

You have told us you never gave any information to Mr. Gordon Hammond concerning the Union after your conversation of November 12th with him, is that true?

A. Not revealing any Union activities. [809]

Q. I see.

Trial Examiner Lindsay: I think there should be a correction there. His testimony was after the 16th, November 16th.

Mr. Clark: But the record shows he only talked to Mr. Hammond in this connection on November 12th, and then the next conversation was after November 16th, namely, on the morning of the 17th. That is the point of my question.

(Addressing the Reporter) Were you here when that testimony was taken on cross examination?

The Reporter: I don't remember.

Mr. Clark: May I make a statement, Mr. Examiner?

Trial Examiner Lindsay: How?

(Testimony of E. C. Powell.)

Mr. Clark: May I make a statement in connection with that?

Trial Examiner Lindsay: It isn't necessary right now. The record is the best statement on it.

Mr. Clark: I will ask the statement directly of the witness.

Trial Examiner Lindsay: Just a minute, Mr. Attorney. I have not finished yet.

Would you, if you do not have it in your notes, would you get the other reporter here?

The Reporter: Yes.

(At this point, there was a short interruption pending [810] the arrival of the reporter.)

(Discussion outside the record.)

Mr. Clark: I would like to have the record show, if I may, that I have asked permission of the Court to make a statement concerning the intended purport of the question I have just put to the witness, and I would like the Court's ruling on it.

Trial Examiner Lindsay: I have stated that you may make any statement you wish after I have had read the record on the specific thing that I requested be read. I am not denying you, Mr. Clark, or anyone else, the right to make any statement, but I do have the right to ask that certain testimony be read back to me, and I do not believe anyone has a right to make a statement while I am waiting to have that testimony read.

However, as I said, you may make your statement.

(Discussion outside the record.)

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: We will adjourn until a quarter to 2:00. It is now a quarter to 12:00.

(Thereupon, at 11:45 o'clock A. M., a recess was taken until 1:45 o'clock P. M. of the same date.) [811]

After Recess

(Whereupon, at 1:45 o'clock p. m., the hearing was resumed.)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: The respondents are ready, Mr. Examiner.

Mr. Mouritsen: Ready for the Board.

Trial Examiner Lindsay: Now, this testimony I wanted to get straight in my mind on your question—I am now reading from page 809 of today's proceeding:

“You have told us you never gave any information to Mr. Gordon Hammond concerning the union after your conversation of November 12th with him, is that true?”

Now there is testimony on page 783, questions and answers.

“Q. In other words, after this conversation, which you placed as being about November 6th, you never again gave Mr. Gordon Hammond any authentic information about the union, is that true?

“Mr. Mouritsen: May I have the question read?

“Trial Examiner Lindsay: Yes. Read the question.

“(The question referred to was read by the reporter, as set forth above.)

“The Witness: Not after November 16th.

“Q. (By Mr. Clark) Well, you did, then, have further conversations with him at which you gave him information about the union after you had filed this application on [812] November 11th, is that right?

“A. That is right. After I filed the application, but not after I took oath in the membership.”

Now I was confused by the questions. I merely wanted to straighten it out in my own mind.

Now, Mr. Clark, you stated that you wished to make a statement for the record.

Mr. Clark: Yes. The thing I had in mind——

Trial Examiner Lindsay (Interrupting): I had you wait until I had this testimony. I now have it and now, if you wish to make a statement, you may.

Mr. Clark: The thing I had in mind, Mr. Examiner, was this: As I understand Mr. Powell's testimony—I wish he would correct me if I am wrong in this—he has already testified to meetings he claims to have had with Mr. Gordon Hammond relative to this subject matter, on November 1, 1938——

Trial Examiner Lindsay (Interrupting): On or about.

Mr. Clark: I mean that; also on or about November 6, 1938, and also on or about November 12, 1938; but that after November 12, 1938, he never had any meeting with Gordon Hammond at which he gave any information concerning the union, in view of the fact that the next meeting he testified to was the one of November 17th at which he tells us he told Mr. Gordon Hammond that he had become a member and [813] *and* that he couldn't divulge information from that time on.

That is what I meant by my question, don't you see, to link that fact to November 12th.

Trial Examiner Lindsay: I do not understand the testimony to be that. I think that is where we have been confused.

Mr. Clark: May I ask the witness a question on it, then?

Trial Examiner Lindsay: Now you may ask the question.

Mr. Clark: Very well.

EVAN C. POWELL

the witness on the stand at the time of the recess, having been previously duly sworn, resumed the stand and further testified as follows:

Cross Examination

(Continued)

Q. (By Mr. Clark) After November 12, 1938, Mr. Powell, did you have any conversation with Mr. Gordon Hammond at which you gave him any information concerning this union?

(Testimony of E. C. Powell.)

A. (Pause) After November 12th I had a conversation with Mr. Hammond but not in revealing any information of union activities; after November 16th.

Q. Well, do I understand then that between the conversation of November 12, 1938, and November 16, 1938, you did have further conversations with Mr. Hammond?

A. After November 11th, yes, on or about the 12th I had a [814] conversation with Mr. Hammond.

Q. All right.

Now, did you have any conversations with Mr. Hammond on this subject matter, that is, with respect to the union——

A. (Interrupting) Yes.

Q. (Continuing) Wait a minute—after the one on November 12, 1938, and before November 16, 1938?

A. Yes.

Q. And when, please?

A. On or about the 12th.

Trial Examiner Lindsay: Between the 12th and the 16th, for instance, on the 13th, 14th, or 15th. Is that the meaning?

Mr. Clark: That is it exactly.

The Witness: The only conversation I recall was after the 11th, on or about the 12th.

Mr. Clark: All right.

Q. Then you did not have any more conversations with Mr. Hammond on this subject matter until the conversation of November 17th at which

(Testimony of E. C. Powell.)

you told him that you couldn't tell him anything more about the union, is that true?

A. Not the 17th. That was on the 18th, the morning of the 18th. [815]

Mr. Clark: May I have the question read to the witness, and may we try to get an answer to it, Mr. Examiner?

Trial Examiner Lindsay: Yes. Now, read the question, please. You just listen to the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I told Mr. Hammond on or about the 12th we had a meeting at Mr. Spear's house on the 11th, and I told him myself and others had made applications.

Mr. Clark: All right.

Q. When was the next time after that that you discussed this subject matter at all with Mr. Gordon Hammond?

A. As I recall, on the morning of the 18th after that.

Q. And was it at the conversation on the morning of the 18th that you told him that you couldn't tell him any more about the Union because you had joined?

A. That is right; that is right. On the morning of the 18th.

Q. All right.

You are positive of that, are you?

A. Positive.

(Testimony of E. C. Powell.)

Q. What time on the 18th, November 18th, 1938, was this conversation with Mr. Hammond?

A. On or about 8:00 o'clock of that morning.

Q. I see. [816]

Was it subsequent to that conversation with Mr. Hammond that you were offered a job, or rather had a job, or, rather, a further job with Boswell and Company? A. No, sir.

Trial Examiner Lindsay: Do you know what subsequent means?

The Witness: Yes.

Mr. Clark: Afterward.

I will reframe the question and withdraw it, Mr. Examiner.

Q. After your conversation with Mr. Gordon Hammond on the morning of November 18th at about 8:00 o'clock, that you have just referred to, did anyone on behalf of Boswell and Company offer you any employment?

A. Yes, they offered me employment under conditions.

Q. Upon what conditions, please?

A. That I would withdraw from the Union and have nothing more to do with it.

Q. And where did that conversation take place?

A. In the main office building.

Q. And when, please?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I won't identify it. If it is the con-

(Testimony of E. C. Powell.)

versation we all think it is, I won't go into it. I will drop it. [817]

Q. When, please?

A. Somewhere about the first Monday in December, if I recall correctly.

Q. Is this the conversation with Mr. Gordon Hammond which you placed as being about ten days after November 18th, at which he made the remark about the Union being "hooey?"

A. Something like that.

Q. Have you already told us all about this conversation that you are now referring to? Or do you have something new to add to it?

A. I may possibly have. I have gone into it so many times that I don't recall.

Q. Well, let us see if we can't locate this, and find out whether it is a new conversation or not.

You say that it took place about the first Monday in December, 1938; is that so?

A. That is one of the conversations, yes.

Q. Where?

A. In the main office building.

Q. Who was present? A. Mr. Hammond.

Q. Anyone else? A. Not within hearing.

Q. And in whose office?

A. In the office just to the left of the bookkeeping depart- [818] ment.

Q. Was it Mr. Hammond's office?

A. No, sir.

Q. Mr. Louie Robinson's office?

A. No, sir.

Q. Do you know whose office it was?

(Testimony of E. C. Powell.)

A. I think a party by the name of Mr. Kiefer has an office there, or does business there. I am not positive, but I think Kiefer, McKiefer.

Trial Examiner Lindsay: Let us not go over the same things so many times.

Mr. Clark: I am trying not to, Mr. Examiner.

Trial Examiner Lindsay: You have asked and he has answered those specific questions before.

Now, I want, of course, all of the questions regarding the facts asked, but let us not go over them so many times. It is taking too much time and it isn't serving any purpose.

Mr. Clark: Well, Mr. Examiner, it isn't my wish to prolong this cross examination, but this gentleman now, as the record will show, has mentioned a conversation which I am not at all sure was touched upon on direct examination or the cross so far. Now——

Trial Examiner Lindsay (Interrupting): You asked those specific questions on cross examination just before we stopped to look up the record, and described that office as being [819] just to the left of the bookkeeping department. You asked if it was Mr. Hammond's office. You asked if it was Mr. Louie Robinson's office. That has all been gone over, Mr. Clark. [820]

Mr. Clark: Not with respect, Mr. Examiner—with the utmost deference to you—not with respect to any conversation that took place on the 1st of December or thereabouts.

Trial Examiner Lindsay: All right. Proceed.

(Testimony of E. C. Powell.)

Mr. Clark: And this is the first time Mr. Kiefer has been mentioned.

Trial Examiner Lindsay: I grant that, but the rest has been gone over. But go over it again if you think it is necessary.

Q. (By Mr. Clark) Now, what, if anything, did Mr. Hammond say to you on this occasion you are now referring to?

A. I think he mentioned and wanted to know how I was getting along, what I was eating, and how I was living, and if the union was doing anything for me.

Q. What did you say to that?

A. I told him I was existing and hadn't starved yet.

Q. What else, if anything, was said?

A. I don't recall anything else at this time.

Q. Is that the last time you ever had a conversation with Mr. Hammond about your being employed at Boswell?

A. I think so. I am not positive, but I think that was the last conversation of that nature I had.

Q. Did he offer you a job on that occasion?

A. I believe he did, under condition.

A. All right. You speak of certain conditions. Will you [821] please state what he said in that regard?

A. Discontinue any union activity and membership and anything I could find to do down there I could have.

(Testimony of E. C. Powell.)

Mr. Clark: May I have that read back, Mr. Examiner? I didn't get the last of it.

Trial Examiner Lindsay: Yes, read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark) Now, is that all Mr. Hammond said in that regard at that meeting?

A. All I recall at that meeting at this time, yes.

Q. What did you reply to that?

A. I told him I joined the union and I would string along with them and see what was going to develop.

Q. Isn't that the same conversation that you have referred to already in your direct examination?

Mr. Mouritsen: I object to that as vague and indefinite. That has been gone into a number of times. There are a number of conversations that the witness has been referred to on his direct examination.

Mr. Clark: I would like to know if it was the same or a different one.

Trial Examiner Lindsay: Sustained. You may reframe your question.

Q. (By Mr. Clark) Have you told us about this conversation [822] before just now?

A. On the same subject. We had other conversations at different times along that line.

Q. I am asking you about this particular conversation which you place as being on the first Monday in December of 1938. Did you testify to that on your direct examination?

(Testimony of E. C. Powell.)

Mr. Mouritsen: I object to that as already asked and answered.

Mr. Clark: Submitted.

Trial Examiner Lindsay: He may answer.

The Witness: (Pause)

Mr. Mouritsen: I add the further objection that the witness is undoubtedly unfamiliar with the terms of cross examination and direct examination. I request that he be instructed in that matter.

Mr. Clark: I will reframe the question to meet that objection.

Q. During your testimony here in this proceeding, Mr. Powell, have you told us about this conversation which you place as having taken place on Monday—on the first Monday in December, 1938, at any time before this afternoon?

A. I have a check stub that I can definitely refer you to at that meeting.

Mr. Mouritsen: I move that the answer be stricken since [823] it indicates that the witness does not understand the question and, therefore, it is confusing.

Mr. Clark: May we have it read?

Trial Examiner Lindsay: It may be stricken.

Mr. Clark: May we have the question read?

Trial Examiner Lindsay: Yes.

I think there are so many meetings here that he has testified about that if you would be specific in your questions that we would get along much faster.

(Testimony of E. C. Powell.)

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I object to the question. No wonder the witness is confused about the matter.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: I am going to sustain the objection to the question.

Q. (By Mr. Clark) Mr. Powell, did I understand you to tell us this morning that you did not learn that Mr. Martin had become a member of this union until the time you attended the meeting of November 16th, 1938?

A. Definitely no. I didn't.

Q. That is the first time that you learned that Mr. Martin had become a member of this union, is that right?

A. It is. I heard he had before that.

Q. What is that? [824]

A. I had heard he had been a member, but I didn't know it.

Q. You didn't know it. Why was it, then, that you made the application which is in evidence in this case? A. (Pause)

Q. Why was it that you made the application which is marked Boswell's Exhibit 5 and which you have told us you signed on November 11, 1938, in Mr. Martin's presence, and have him put the name of the union on it and turned it over to him?

A. Yes. [825]

(Testimony of E. C. Powell.)

Q. I say, why was it?

A. Well, I was interested in the application and Mr. Martin was handling that, the secretary and treasurer's duties, applications, and those interested in applications, and he was writing them up.

Q. Well, at that time, then, November 11th, you did know that Mr. Martin was secretary-treasurer of the Union, didn't you?

A. Not to my own satisfaction. I was informed he was.

Q. By whom were you so informed?

A. By the membership, supposed membership.

Q. And what particular individuals can you call to mind?

A. I don't recall any particular individuals.

Q. At any rate, you filled out your application to join the Union and handed it to Mr. Martin?

A. That is right.

Q. On that occasion, didn't you?

A. Yes, sir.

Mr. Clark: That is all.

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Powell, I believe yesterday Mr. Clark asked you whether or not you obtained a divorce from your first wife. Do you recall the question? A. Yes, I do.

Q. And at this time I will ask you, Mr. Powell, if your first [826] wife obtained a divorce from you?

A. She did.

(Testimony of E. C. Powell.)

Q. Now, upon your cross examination at the preliminary examination before the City Judge here in Corcoran, at which the District Attorney was present—that was referred to, do you recall that?

A. Yes.

Trial Examiner Lindsay: Do you know what a preliminary examination is?

The Witness: Yes.

Q. (By Mr. Mouritsen) You recall being present before the judge and the District Attorney being present at that time, is that correct?

A. Yes, sir.

Q. I believe you stated also that at that time you were ill, is that correct? A. Yes, sir.

Q. At that time, or subsequent to that time, did you make any request that medical attention be furnished you by the authorities here in Corcoran?

A. Not in Corcoran. I did in Hanford.

Q. You were kept in the County Jail at Hanford, is that correct? A. Yes, sir.

Q. Did you request the County authorities there to furnish [827] you medical attention?

A. Yes, sir.

Q. How many times did you make such a request, if you recall?

A. Continuously during the first day.

Mr. Clark: I can't hear him. I can't follow him.

Trial Examiner Lindsay: "Continuously during the first day."

Mr. Clark: Continuously?

(Testimony of E. C. Powell.)

Q. (By Mr. Mouritsen) On the first day, was medical attention furnished you by the County authorities at Hanford? A. It was not.

Q. Kings County? A. It was not.

Q. After that first day—no, strike that.

When you say the “first day”, do you refer to the first day when you were placed in the County Jail?

A. Yes, sir.

Mr. Clark: May I have the date fixed with respect to the preliminary hearing?

Trial Examiner Lindsay: Yes.

Was that the day following the preliminary hearing?

Mr. Mouritsen: I object to the question, Mr. Examiner, on the ground the form is improper.

Trial Examiner Lindsay: Well, you may ask him. [828]

Q. (By Mr. Mouritsen) Mr. Witness, will you tell us——

Mr. Clark (Interrupting): Mr. Examiner, may I make a statement? There is no question from me to which an objection would lie. I simply requested to have the date fixed.

Trial Examiner Lindsay: There isn't any question.

Q. (By Mr. Mouritsen) Will you state whether or not, Mr. Witness, the preliminary hearing was held upon the first day that you were placed in the County Jail at Hanford? A. Yes, sir.

(Testimony of E. C. Powell.)

Mr. Mouritsen: I didn't intend to be discourteous, Mr. Examiner.

Trial Examiner Lindsay: That is all right.

Mr. Mouritsen: I thought the witness might be misled by the Examiner's question, which is why I made the objection.

Q. Now, after that time—strike that.

I believe you stated that you asked continuously for medical attention on the first day, is that correct? A. Yes.

Q. After that day, did you make any further requests for medical attention? A. I did.

Mr. Clark: I object to that upon the ground no proper foundation has been laid. The question is ambiguous, it is indefinite as to persons to whom a request was made, and calls for hearsay as to all of these Respondents, and also [829] is indefinite as to the time. I am not going to object to this being gone into if the date is definitely fixed with respect to the date of the preliminary hearing, and if this witness can tell of whom he made the requests, if not by name, then by position.

Trial Examiner Lindsay: Well, he may proceed with the examination.

Mr. Mouritsen: Mr. Examiner, I must first ascertain whether or not the requests were made before I can lay my foundation.

Trial Examiner Lindsay: Yes, proceed.

Mr. Clark: I also object to the manner in which counsel for the Board is examining this witness on

(Testimony of E. C. Powell.)

redirect examination, namely, that each and every question is a leading and suggestive question, and I interpose that objection to the last question put to the witness.

Trial Examiner Lindsay: I think the questions are all right. Proceed.

Q. (By Mr. Mouritsen) Do you recall the question, Mr. Powell? A. Yes.

Q. Will you please answer?

A. The following day. [830]

Q. And to whom did you make such a request on the following day?

A. The turnkey of the jail. I only know him by a nickname.

Q. What is his nickname?

A. I don't recall it right now.

Q. And you recall what time during the day you made the request?

Mr. Clark: Objected to upon the ground that no proper foundation has been laid, the date has not been specified.

Trial Examiner Lindsay: The following day after he was in. We have the record here.

Mr. Mouritsen: It is in evidence before the hearing.

Trial Examiner Lindsay: Proceed with the examination.

Mr. Clark: Very well.

The Witness: Early the next morning, and several times during that day.

(Testimony of E. C. Powell.)

Q. (By Mr. Mouritsen) On the first occasion what did you say to the turnkey?

Mr. Clark: Objected to; incompetent, irrelevant and immaterial, hearsay as to the respondents, and in no way binding upon any respondent in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: I told him I was seriously ill and also my cellmate told him I needed medical attention. He said he would see about it but he didn't. [831]

Q. (By Mr. Mouritsen): And from time to time during that same day did you make a similar request?

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

The Witness: Yes.

Q. (By Mr. Mouritsen) While you were placed in the jail in Hanford, did you ever receive medical attention?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial; probative of no issue in this case, and in no way binding upon any of the respondents.

Trial Examiner Lindsay: He may answer.

The Witness: On the third day after I was placed in jail I did.

Q. (By Mr. Mouritsen) After that time did you ever have any conversation with Roger Walch re-

(Testimony of E. C. Powell.)

garding the plea that you were to enter at your hearing?

A. Yes, sir.

Q. Do you recall how long after that — strike that.

Do you recall how long after you had been placed in jail that you had a conversation?

A. I was in Mr. Walch's office——

Q. (Interrupting) No. Let us fix the time, first, Mr. Powell.

Do you recall how long after you had *been* placed in jail that you had a conversation with Mr. Roger Walch regarding the [832] plea you were to enter when you appeared for trial?

A. About a week after that.

Q. And where did this conversation take place?

A. In his office.

Q. Other than yourself and Mr. Walch, was anyone else present?

A. One of the deputies, I think, who took me over there, was in the office room, but I don't know.

Q. You mean a deputy sheriff or a deputy district attorney?

A. Deputy sheriff.

Q. Other than you three was anyone else present?

A. Not that I recall.

Trial Examiner Lindsay: I think his testimony is that he was not sure the deputy sheriff was in the district attorney's office.

Am I wrong in that?

The Witness: He took me in the district attorney's office, but he was not in the conversation.

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: I see.

Q. (By Mr. Mouritsen) Did he remain in the district attorney's office while this conversation took place?

A. Near the office, yes.

Q. Now, will you relate the conversation that took place between you and Mr. Roger Walsh at that time with reference [833] to the plea you were to enter at your trial?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial; hearsay as to the respondents in this proceeding, and in no way binding upon any of them; also self-serving and probative of no issue in this proceeding.

Mr. Mouritsen: Mr. Examiner, upon the cross examination an effort was made to impeach the testimony of this witness. I think we are entitled to indicate the circumstances surrounding the conviction of which the defendant has been accused.

Trial Examiner Lindsay: Yes, I would like to know all about it.

The Witness: The district attorney told me that the hearing had been set for a later date before the district judge with a recommendation for probation before Judge J. J. Walker. He told me, of course, that he had advised me before, due to the fact I would have to stay in jail for six months or maybe then it wouldn't come to a hearing, and that I had a wife and children to support, and under the circumstances of the check it was ridiculous for a hearing of that nature to come before any court, and on the recom-

(Testimony of E. C. Powell.)

mendation to the probation judge, J. J. Walker, he would recommend straight probation so I could go ahead and support my wife and children.

Q. (By Mr. Mouritsen) And when you refer to the—strike [834] that.

Did he refer to or explain the circumstances surrounding the check that he referred to at that time?

A. Yes.

Q. Will you state what he said as nearly as you can recall regarding those circumstances surrounding the check?

Mr. Clark: Object to that as incompetent, irrelevant and immaterial; hearsay to the respondents in this proceeding, in no way binding upon any of them; also self-serving.

Trial Examiner Lindsay: He may answer.

The Witness: He said the fellow Bob Carden was a curious customer, that he had several other complaints for the same nature come up before that, bad checks, gambling checks; that I couldn't have made a bond, and I didn't know how long I had to lay over in jail, it would be best, on his suggestion, I make a plea of guilty and ask for probation and that he was confident that Judge Walker was a splendid man and understood problems of that nature and would no doubt grant straight probation.

Q. (By Mr. Mouritsen) In reliance upon that statement by Mr. Walch, did you subsequently at your appearance plead guilty? A. I did.

(Testimony of E. C. Powell.)

Q. And did Mr. Walch at your formal appearance recommend that you be given leniency? [835]

A. He did not. He recommended that he could have given me five years and I was getting off lucky getting four months.

Mr. Mouritsen: No further questions.

Recross Examination

Q. (By Mr. Clark) Mr. Powell, when your first wife divorced you, as you say, did you receive a copy of any of the papers?

A. Not at that time; later I heard that she got the divorce.

Q. Did you later receive a copy of the complaint or summons in the divorce action?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: I will submit it.

May it please the Examiner, may I have the ruling stricken so I can make a statement first?

Trial Examiner Lindsay: Well, I am not going to deny you the right to make a statement, but I just don't see the purpose of all these statements.

Now as I recall his testimony, the only examination when you went into that question was that when you asked him if he had gotten a divorce from his wife he answered no.

Mr. Clark: That is right.

Trial Examiner Lindsay: Now as I now get this

(Testimony of E. C. Powell.)

testimony, [836] that was only for the purpose of clearing up that answer. Now I just don't understand why we have to continue on these things. He said that the divorce was gotten by his wife. I don't believe we have to go back and rehash a divorce matter in this case.

Mr. Clark: Does your Honor expect me to believe a single word that this man says on the stand?

Trial Examiner Lindsay: Now listen, Mr. Attorney. You are entirely out of order. It is immaterial whether or not you do believe him. After all, that is a matter which is entirely up to other tribunals and asking me a question of that type at this time surely is completely out of order from any attorney.

Mr. Clark: I simply submit that this having been gone into on redirect examination, may it please the Examiner, I have the right to attempt to ascertain the credibility of the witness' answers to Mr. Mouritsen with respect to his wife having obtained a divorce from him. Or, in other words, playing upon that out or that statement in order to explain his blunt statement on cross examination that he had not obtained a divorce from his wife. I think I am entitled to find out what county the proceeding was in, to find out whether he was served with a summons and complaint as he would have to be in this State before the divorce would be legal, so that I may go to the records of that county and [837] search them and see if any such divorce proceeding is pending, because I doubt it very much.

(Testimony of E. C. Powell.)

This witness has been impeached not once, Mr. Examiner, but a dozen times.

Trial Examiner Lindsay: Mr. Attorney, listen.

Mr. Mouritsen: Mr. Trial Examiner, I have seldom heard such an exhibition of statements from an attorney before a trial of this kind regarding a witness. It is entirely out of order and I suggest that the counsel for respondent be admonished in regard thereto.

Trial Examiner Lindsay: I don't——

Mr. Clark (Interrupting): I would like to reply to that, Mr. Examiner.

Trial Examiner Lindsay (Continuing): Now, wait, both of you gentlemen. I am not going to tolerate any more of this. Now if you have been in any of these hearings before—if you haven't, I will tell you now—that at the end of this hearing you have a right to argue these matters before me and that is the time for it. Now I don't want any attorney characterizing anyone's testimony by making statements for the record at this time. There is a proper time for all that sort of thing and you will be given that opportunity. [838]

Then, after you have made the argument, which privilege you will have, then the credibility of a witness in its final analysis will be up to me. We must proceed in an orderly manner, and it is all I am asking for, and statements of those kinds are not only out of order, but serve no purpose. I can read that testimony, and I can analyze it.

(Testimony of E. C. Powell.)

Now, in view of your statement which you have made, that you even doubt that he got a divorce, or rather that his wife got a divorce, which you have made without any foundation, if you wish to question him on that, for that particular purpose, then I will grant you that privilege.

Mr. Clark: That is my only purpose, Mr. Examiner.

Q. Can you tell us what County your wife's divorce was granted in?

A. Alturas, Modoc County, California.

Q. And approximately when, please?

A. I couldn't give you the date. The records show it up there.

Q. Can you give us approximately——

A. (Interrupting) No, I could not.

Q. And can you give us your wife's name, please?

A. Maiden name?

Q. No.

A. She was remarried again and had children by another marriage. I could give you all of that if you wish. [839]

Q. Did she bring the action against you in your name, in your present name, that is, Powell, the name Powell? A. Yes.

Q. Is the name of the action Powell versus Powell? A. That is right.

Q. And have you seen a copy of any papers in that action? A. I did.

Q. And approximately when was that?

(Testimony of E. C. Powell.)

A. Several years—two years or more after.

Q. How many years ago was it, about?

A. Well, we separated when my son was six months old. He will be fifteen years old this coming August, and she obtained a divorce, I think, about two years after separation.

Q. So it was twelve or thirteen years ago, then, as near as you can place it?

A. Somewhere about that.

Mr. Clark: That is all.

Mr. Mouritsen: Nothing further.

Q. (By Mr. Clark) Can you give us her first name? A. Elma Irene Pope Powell.

Q. Alma, A-l-m-a? A. Elma.

Q. E-l-m-a? A. I think that is right.

Q. Don't you know how to spell it? [840]

A. I would not attempt to spell it.

Q. Elma, anyway, Irene—

A. (Interrupting) Pope Powell.

Q. Pope? A. P-o-p-e.

Q. Powell? A. P-o-w-e-l-l.

Mr. Clark: Very well. That is all.

Trial Examiner Lindsay: I have one question.

Q. You have never changed your name, have you?

A. Never.

Trial Examiner Lindsay: All right.

Mr. Mouritsen: Nothing further.

Mr. Clark: I would like to ask one question on recross.

(Testimony of E. C. Powell.)

Recross Examination

(Continued)

Q. (By Mr. Clark) In your examination you referred to a certain day that you asked for a medical examination from the people in the County Jail at Hanford.

Do you have that testimony in mind?

A. Yes.

Q. Was that the day of the preliminary hearing in the case of The People of the State of California against E. C. Powell, the transcript of which has been put in evidence in this proceeding?

A. I had a preliminary hearing right here, and they took me [841] to Hanford that day, and we had another, a routine. They took me to the District Attorney's office that same day.

Q. The record in this case shows, Mr. Powell, that the hearing from which certain testimony was read into the present record was held at Corcoran on February 18th, 1938.

Now, was it on that day that you made these requests for medical attention you have told us about?

A. On that day that they took me to Hanford.

Q. That is the day upon which you testified before the City Judge in Corcoran, is that true?

A. That is right.

Q. That was the first day after you had been returned from San Bernardino?

Mr. Mouritsen: Objected to.

(Testimony of E. C. Powell.)

Mr. Clark: I want to be sure he understands it.

The Witness: I don't understand it.

Q. (By Mr. Clark) Was that the first day after which you had been returned to Kings County from San Bernardino?

A. The first day I was returned, I stayed here from nearly 2:00 o'clock in the night—maybe later—until sometime that afternoon.

Q. Was that the day upon which you made these requests for medical attention?

A. Yes, when I was in jail over there.

Q. You mean after you had been taken to Hanford on that day? [842]

A. Yes.

Q. Do you remember the name of the turnkey to whom you made those requests?

A. They called him "Stoolie."

Q. Stoolie?

A. Yes.

Q. That is the only name you know him by?

A. Yes.

Mr. Clark: That is all.

Trial Examiner Lindsay: Witness excused.

(Witness excused.)

Mr. Mouritsen: Call Mr. Gilmore.

JAMES WILLIAM GILMORE,
a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Mr. Mouritsen: Mr. Examiner, at this time I

(Testimony of James William Gilmore.)

move to amend the complaint in this matter to read as follows: Paragraph 8 thereof:

“On or about March 20th, 1938, Respondent discharged——”

Trial Examiner Lindsay (Interrupting): Just a moment. What paragraph?

Mr. Mouritsen: Paragraph 8.

Mr. Clark: Will you wait until we get our copy out?

Mr. Mouritsen: Yes. [843]

Mr. Clark: All right.

Mr. Mouritsen: So that Paragraph 8 will read as follows:

“On or about March 20th, 1938, Respondent discharged James W. Gilmore and on or about July 1st, 1938, refused to reinstate said James W. Gilmore.”

Mr. Clark: You mean prefacing the language that is there now; is that right?

Mr. Mouritsen: Just a moment, Mr. Clark. Yes. And it will continue with the present paragraph 8 which is:

“On or about November 17th, 1938, Respondent discharged W. R. Johnston, Stephen J. Griffin and Elmer Eller, and on or about January 30th, 1939, discharged Eugene Clark Ely, because said employees joined and assisted the union and engaged in concerted activities with other employees for their mutual aid and protection.”

(Testimony of James William Gilmore.)

Mr. Clark: May I have that language so I can copy it, Mr. Examiner?

Trial Examiner Lindsay: Yes. This is off the record a second.

(Discussion outside the record.)

Trial Examiner Lindsay: All right. Proceed.

Mr. Mouritsen: Before that is ruled upon, Mr. Examiner, I didn't quite correctly state the addition I intended to make to Paragraph 8, and will now re-state the preface that [844] I desire to add as an amendment to Paragraph 8. [845]

Mr. Clark: Will you read it slowly enough for me to follow and copy?

Mr. Mouritsen: Yes.

“On or about March 20th, 1938, Respondent discharged James W. Gilmore and on or about July 1st, 1938, refused to reinstate said James W. Gilmore because he attempted to organize the employees of the company; and on or about November 17th, 1938”—

and continuing with the present paragraph 8.

May I state, Mr. Examiner, that an allegation similar to the one I have outlined as an amendment is contained in the fourth amended charge and was through inadvertence omitted from the amended complaint.

Mr. Clark: May I have a minute to check the fourth amended charge?

Mr. Wingrove: Paragraph 2.

(Testimony of James William Gilmore.)

Mr. Clark: To which we object, may it please the Examiner, on the ground that the motion to amend comes too late as it was not served upon the respondent J. G. Boswell Company or the other respondents in this matter within any reasonable time prior to the commencement of this hearing.

I might add, too—although I am not stating this of my own knowledge. Mr. Wingrove tells me—that this gentleman, that is, Mr. Gilmore, that the subject of this amendment was in the first charge, that is, the charge of July 17, 1938, which was later dismissed on recommendation of [846] Mr. Larson of the National Labor Relations Board.

Is that your understanding, Mr. Wingrove?

Mr. Wingrove: That is my belief.

Trial Examiner Lindsay: Yes.

Well, in accordance with the Rules and Regulations of the National Labor Relations Act, the amended amendment is granted. However, the Respondent has five full days from the date hereof in which to answer this amendment to the complaint, and if the Respondent so desires, the testimony of Mr. Gilmore will not be taken until after the expiration of five full days.

Mr. Clark: Well, speaking for the Respondents, Mr. Examiner, I think I will have to insist on that and ask that Mr. Gilmore's testimony taken thus far be stricken from the record, and that we be allowed to file a formal answer to the amendment now made to the fourth amended complaint—rather,

(Testimony of James William Gilmore.)

the amended complaint, and then the witness be recalled.

Trial Examiner Lindsay: That may be granted. The testimony of this witness will be stricken from the record, and the Respondent will have five full days in which to file any answer to the amendment, and after that has expired, then this witness will be recalled.

(Thereupon, the Witness Gilmore was withdrawn from the witness stand, and his testimony was physically stricken from the record on the request of Respondents' counsel.) [847]

Mr. Clark: May it please the Examiner, may I ask that we be given leave, and I think this is left in your Honor's discretion, to file the original of our answer to this amendment with your Honor and then have it made a part of the record in this case, together with the other pleadings already admitted in evidence.

Trial Examiner Lindsay: I am not sure that I quite follow you.

Mr. Clark: Ordinarily I have to send it to the Regional Director. I simply want to file it with you and have it go into the evidence here.

Trial Examiner Lindsay: May I explain, Mr. Clark?

The Regional Director has nothing to do with this hearing now.

Mr. Clark: I wanted to be certain of that.

Trial Examiner Lindsay: Everything that is done must be done here.

Mr. Clark: I will file it with you.

Trial Examiner Lindsay: Yes, that is where it must be filed.

Mr. Wingrove: We must file only that portion to Paragraph 8?

Trial Examiner Lindsay: Yes. And you may make the answer by making an oral statement, if you desire, or it may be written, but it must be made to me and no one else; and it [848] will become part of the record, naturally.

Is there any other question about this amendment, or the answer to it?

Mr. Clark: None from us.

Trial Examiner Lindsay: We will take a fifteen minute recess.

(At this point, a short recess was taken, after which proceedings were resumed as follows: [849])

Trial Examiner Lindsay: I think, if you gentlemen wish to—it is quite warm in here—there will be no objection on my part if you feel like removing your coats.

Now, was there something you wished?

Mr. Clark: Yes, Mr. Examiner. I wonder whether we could simply have written up, informally by the reporter, the testimony of the witness who just testified. I realize it is stricken from the

record, and I agreed that it be stricken physically, but we may want it in connection with his cross examination when he next takes the stand, and rather than at that time asking the reporter to go back in his notes and get it, I wonder if he could write it now and furnish us with it because it is, don't you see, no matter whether stricken or not, a statement made under oath by the witness and it would be an admission which could be used as impeachment.

Trial Examiner Lindsay: I have no objection, but it was at your suggestion that I ordered it physically stricken.

Mr. Clark: I think that is the best way for the record. I am only asking for separate pages to be written up, and that we get a copy of it.

Trial Examiner Lindsay: Well, that is a matter which is entirely up to the reporter; if he wants to write it up he may, but now, you having said that you wanted it physically out of the record, it is, in fact, not a part of the [850] record, any of his testimony.

Mr. Clark: Is that satisfactory, Mr. Mouritsen?

Mr. Mouritsen: I have no objection.

Trial Examiner Lindsay: Then it may be done that way.

Now there is one other matter other than the statement amending the complaint which you took down, as I understand it, in longhand, Mr. Clark—

Mr. Clark: Yes, sir.

Trial Examiner Lindsay: Is it your desire to

have a formal copy of the amendment to the complaint served upon you?

Mr. Clark: No, I don't care about that. I have it.

Trial Examiner Lindsay: You deem that is a service of the amended complaint?

Mr. Clark: Yes, and I will stipulate that the complaint may be amended on its face.

Mr. Mouritsen: That is acceptable.

Mr. Clark: In that regard, subject to my objection, of course, that I first made.

Trial Examiner Lindsay: Oh, yes.

Mr. Clark: I am only talking about the mechanics.

Trial Examiner Lindsay: That has been covered by complying with the rules and regulations as to the five-day period.

Mr. Clark: Yes. [851]

Mr. Prior: Mr. Examiner, at this time I would like to ask to be excused until tomorrow noon, in as much as I have received a request to attend an important meeting in Long Beach tonight, and it will be necessary for me to leave very shortly to make the appointment.

Trial Examiner Lindsay: Yes. You may be excused, Mr. Prior.

Mr. Prior: Thank you.

(At this point, Mr. Prior left the hearing room.)

Mr. Mouritsen: Call Mr. Spear.

L. A. SPEAR,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): What is your name, Mr. Spear?

A. Spear; L. A. Spear.

Q. And where do you reside?

A. 1419 Brokaw Avenue.

Q. Have you ever worked for J. G. Boswell Company? A. I have.

Q. When did you first start to work for that Company?

A. About—sometime in July, '28.

Q. In the year 1928? A. Yes, sir. [852]

Q. And what type of work did you start to do for the Company at that time?

A. I don't remember the type of work I first started to do. I was hired as a ginner, and got paid as a ginner.

Q. What—did you work continuously for the Company from 1928 to the year 1938? A. No.

Q. Were there any periods during that time when you were not employed by the Company for more than say, a month?

A. When I was not employed?

Q. As long as a month?

A. Yes, there was times.

Q. You recall the first occasion when you were

(Testimony of L. A. Spear.)

not employed by the Company for a period in excess of one month? A. I do.

Q. When was that? A. '31.

Q. And how long were you not employed by the Company at that time?

A. For a period of about three months.

Q. Other than that occasion, in 1931, have there been any other occasions upon which you have not been employed by the Company for periods longer than a month? A. Yes.

Q. What was the next occasion? [853]

A. I think a period—there was a time in '32, about the same period of time.

Q. About three months, is that correct?

A. About three months.

Q. And after that time in 1932, has there been any other occasion when you were not employed for a period as long as a month?

A. There was.

Q. When was the next occasion?

A. Well, I don't remember whether it was in the Spring of '33 or sometime about that time. I was gone about eighteen months. I was laid off, and conditions didn't look very favorable, so I didn't come back to work.

Q. And after that occasion, when you had an eighteen month lay-off, have you been laid off since that time more than a month?

A. Yes, I have.

Q. When was the next such occasion?

(Testimony of L. A. Spear.)

A. I think I returned in '34, September of '34, as well as I can remember.

Q. After September of 1934, when was the next occasion when you were not employed by the Company for a period in excess of a month?

A. There was a period of time in '36, about two or three months. [854]

Q. And were you laid off at all during the year 1937? A. No.

Q. And during the year 1938, before November 18th, 1938, were you laid off? A. (Pause.)

Q. Do you understand that?

A. I don't believe I do.

Q. Before November 18th of 1938, were you laid off by the Company during that year, 1938?

A. I was laid off in the Spring of '38 for about two or three months.

Q. Two or three months? A. Yes.

Q. Very well.

When did that occur?

A. I think it was February sometime, until, I believe it was, the 1st of May or possibly could have been the 1st of June. The books would have to show that.

Q. Well, from the 1st of May or the 1st of June, 1938, did you work continuously until November 18th, 1938?

A. Well, whatever time that was; when I returned I did work continuously.

Q. And what type of work did you do at the Company in the year 1938?

(Testimony of L. A. Spear.)

A. I did repair work and ginning. [855]

Q. When you say "ginning," what operation did you have reference to?

A. A ginner operates the machinery that takes the lint off of the seed.

Q. And what rate of pay per hour did you receive for doing that work during the year 1938?

A. I think it was 50 cents an hour in '38.

Q. During the year 1938, did you become a member of any labor organization? A. I did.

Q. Did you become a member of a labor organization while you were employed by the J. G. Boswell Company at Corcoran? A. I did.

Q. Of what organization did you become a member of?

A. A. F. of L. affiliate, Cotton Products and Grain Mill Workers' Union.

Q. Do you recall the number of that Union?

A. 21798, I believe.

Q. And when did you become a member of that labor organization?

A. I don't hardly remember the time when I signed an application. It was some time, I think, in September.

Q. Of the year 1938, is that correct?

A. Yes.

Q. And did you ever become an officer of that Local, that is, [856] Local 21798?

A. I did.

Q. What office did you assume in that organization? A. I was the president.

(Testimony of L. A. Spear.)

Q. And approximately upon what date did you become president of that organization?

A. Well, I don't exactly remember the date. I think it was sometime in November.

Q. Which part of November? The fore part or the latter part of November?

A. The fore part.

Q. And the year is 1938; is that correct?

A. Yes.

Q. Has your employment with the J. G. Boswell Company ceased?

A. Yes, sir, it has.

Q. When did you last work for the J. G. Boswell Company?

A. It was on November 18th, I believe, '38.

Q. On the morning of November 18th, 1938, did you or did you not wear your Union button at the plant? A. I did.

Q. Prior to that time, had you worn your Union button at the plant? A. No, I did not.

Q. On that same morning, that is, November 18th, 1938, did other members of the Local wear their Union buttons at the [857] plant?

A. On November 18th some of them did.

Q. Yes.

A. I think for the first time.

Q. Now, at what time did you go to work on November 18th, 1938?

A. I went to work a few minutes before 10:00 o'clock. A. Is that A. M. or P. M.?

(Testimony of L. A. Spear.)

A. A. M.

Q. Were you operating a gin at that time?

A. I was.

Q. What gin? A. Number One.

Q. On the morning of the 18th, what did you do with reference to the operation of Number One gin?

A. Well, I tried to get there a few minutes earlier in order to do some preliminary work.

Q. The question is, did you arrive there a few minutes early? A. Yes, I did.

Q. Will you state, then, what you did?

A. I first cleaned out the dropper, and looked over the belts on the cleaner and gave a hasty survey of the whole.

Q. Will you tell us what next occurred after you did the things you have just described?

A. By that time, it was about time, or was time to start up, [858] so I went out to see the engine man.

Q. Who was that? A. Mr. Todd.

Q. Was he an employee of the J. G. Boswell Company? A. Yes, sir.

Q. Was he an employee of the J. G. Boswell Company at that time?

A. Yes, he was; the engineer.

Q. Did you have a conversation with Mr. Todd at that time? A. Yes, I did.

Q. Was anyone else present other than you and Mr. Todd?

(Testimony of L. A. Spear.)

A. I do not know. I don't think so, within hearing.

Q. Yes.

And where were you when you had your conversation with Mr. Todd?

A. I was standing under the conveyor leading over to Number Three and Four gin.

Q. Now, what did you say to Mr. Todd at that time, and what did he say to you?

Mr. Painter: Just a moment, your Honor. I would like to place an objection to that question on behalf of all of the Respondents on the ground it is hearsay, and not binding on any of the Respondents, and no authority shown for Mr. Todd to speak for any of the Respondents.

Trial Examiner Lindsay: He may answer, and you may have [859] an exception.

The Witness: Did you ask a question?

Trial Examiner Lindsay: Read the question, please.

Mr. Mouritsen: I asked for the conversation that you had with Mr. Todd, and I will stipulate that the objection applies to this repetition of the question.

Mr. Painter: Satisfactory.

The Witness: I asked Mr. Todd to start the engine, and he replied that he was told not to start it, that they were going to have a meeting out there (indicating.)

(Testimony of L. A. Spear.)

Q. (By Mr. Mouritsen) Did he make a pointing motion with his hand? A. Yes.

Q. And in what direction, or to what part of the plant did he point?

A. He motioned over towards the warehouse.

Q. Is there more than one warehouse at the plant?

A. We consider the big warehouse, the case room, the warehouse. There is some more warehouse.

Q. When you state "the warehouse," is that what you characterize as the big warehouse, the one to which you pointed? A. Yes, sir.

Q. What did you then do? Strike that.

Did you have any further conversation with Todd?

Mr. Painter: Just asking if he had any conversation? [860]

Mr. Mouritsen: Yes.

The Witness: I had no more conversation with Mr. Todd.

Q. (By Mr. Mouritsen) What did you then do, Mr. Spear?

A. I went back to my gin. No one was gathered out there. I couldn't see anyone.

Q. Well, that was at the time that you went back to your gin, is that correct?

A. I went directly back inside the building, Number One and Number Two.

Q. Then what next did you do?

(Testimony of L. A. Spear.)

A. A few minutes later, three or four minutes—possibly not over ten—Mr. Bill Robinson came in and——

Q. (Interrupting) Did you have a conversation with Mr. Robinson? A. No.

Q. Will you state what you observed Mr. Robinson—Bill Robinson, do?

Mr. Painter: Objected to as it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: If he knows he may answer.

The Witness: Mr. Robinson and Mr. Farr started in shutting down Mr. Farr's gin.

Q. (By Mr. Mouritsen) And did they complete that shutting down of Mr. Farr's gin while you watched them?

A. They didn't complete the whole operation. They were at it when I walked out. [861]

Q. And where did you go when you said you walked out?

A. I walked out to the place out there.

Q. To what place, Mr. Spear? Can you describe or designate it for us?

A. The gathering place of the supposed to be meeting.

Q. Where was this gathering place? Was it in or out of the plant?

A. Between the big warehouse and No. 2 gin.

Q. Is it on the company property?

A. Yes.

(Testimony of L. A. Spear.)

Q. And was this or was it not shortly after 10:00 o'clock?

A. Shortly after 10:00 o'clock.

Q. Will you state what you observed when you walked out at this time?

A. There was quite a collection of men.

Q. Approximately how many?

A. Oh, I would say 20 or 30 or possibly 40.

Q. You have worked—or you worked at the plant for a period of approximately ten years with some intermissions. Are you or are you not acquainted with the other employees of the J. G. Boswell Company?

A. Most of them I am.

Q. Will you state whether or not you observed among that crowd men who were not employees of the J. G. Boswell Company? [862]

A. No, I don't think so. I never paid but very little attention to the crowd at that time.

Q. On that occasion did you observe Tom or Joe Hammond in the crowd?

A. No, I did not.

Q. Will you state what next occurred after you walked out and saw this crowd, Mr. Spear?

A. I didn't see anything out of the ordinary; as well as I remember it, I walked over and sat down on the back end of the bale wagon.

Q. Will you state what you next observed and heard on that occasion?

Mr. Painter: Just a moment. I will object to

(Testimony of L. A. Spear.)

this on behalf of all of the respondents as hearsay and not binding on any of the respondents.

Trial Examiner Lindsay: He may answer.

The Witness: The next thing I noticed besides just the milling of the crowd was a few men gathering around Mr. Farr and talking with him.

Q. (By Mr. Mouritsen) Who is Mr. Farr?

A. He is—was the ginner on No. 2.

Q. Do you know whether or not that is O. L. Farr?
A. It is.

Q. Yes.

Now, will you state what you next observed and heard [863] with reference to these men gathered around Mr. O. L. Farr?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: The most important thing that I noticed was—or heard, was Tom Donohough asking Mr. Farr if—about the constitution and the by-laws.

Q. (By Mr. Mouritsen) Well, the constitution and by-laws of what?
A. Of the union.

Q. Who is Tom Donohough?

A. He is one of the employees at the time—was either running a drier for 3 and 4 or employed in the mill. I don't know which.

Q. When you refer to 3 and 4, is that to 3 and 4 gins?
A. Yes, sir.

Q. At that time did you hear Mr. O. L. Farr say anything to the assembled group?

(Testimony of L. A. Spear.)

Mr. Painter: I will object to this as hearsay and not binding on these respondents and no proper authorization shown.

Trial Examiner Lindsay: He may answer.

The Witness: I understood Mr. Farr to say, "We have got it."

Q. (By Mr. Mouritsen) At that time did you hear Mr. Farr say anything with reference to the president of the local? [864]

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: There was some conversation that I didn't hear, and something was mentioned about the president.

Q. (By Mr. Mouritsen) Do you recall what was said by anyone regarding the president of the local?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: I understood Mr. Farr to say that Mr. Spear was the president.

Q. (By Mr. Mouritsen) Yes.

Did you do anything at that time? A. Yes.

Q. What did you do?

A. I walked up toward the bunch that was on the front end of the bale wagon.

Q. Yes.

Did anyone state anything to you at that time?

A. Yes.

Q. Who?

(Testimony of L. A. Spear.)

A. Mr. Nichols, the carpenter. I believe he was the first man that spoke to me. That is, I took it that he addressed me first. There might have been others, but he was the first man that I paid attention to as speaking to me.

Q. Now, what did Mr. Bill Nichols say to you at that time? [865]

Mr. Painter: Your Honor, may it be deemed that our objection of hearsay goes to all of this testimony? If not, I will object to it on each occasion. I object to this question as hearsay and not binding on these respondents.

Trial Examiner Lindsay: The objection is overruled.

The Witness: I am not sure whether Mr. Nichols says, "Here, what about this union business?" or he said, "Lonnie, what about this union business?" It was something to that effect.

Q. (By Mr. Mouritsen) Did you say anything at that time?

Mr. Painter: The same objection.

Trial Examiner Lindsay: The same ruling.

I understood you had your objection to all of this line of testimony.

Mr. Painter: Pardon me, your Honor. I didn't hear any response on your behalf.

Trial Examiner Lindsay: I took it for granted that you had. You stated it on the record.

Mr. Painter: Is that satisfactory with your Honor?

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Yes.

Q. (By Mr. Mouritsen) Very well.

Now, Mr. Spear, will you state what, if anything, you said at that time?

Trial Examiner Lindsay: However, if you wish to object to everyone of these questions in addition to your general [866] objection, you may do so.

Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: As well as I remember, I started to explain to Mr. Nichols about the 8-hour plan that was being put in effect to save No. 4 gin from being laid off.

Trial Examiner Lindsay: Just a moment. Will you read back my last statement there?

(The record referred to was read by the reporter, as set forth above.) [867]

Mr. Clark: May I have the entire statement read back, your Honor, because I understood Mr. Painter was only asking if it could be deemed that his objection would run to this entire incident, and he did not hear any response from you.

Trial Examiner Lindsay: Isn't it all settled?

Mr. Clark: Very well. I would like to hear it read, if I may.

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

(Testimony of L. A. Spear.)

Mr. Clark: Very well.

Q. (By Mr. Mouritsen): Now, after you made the statement about which you testified, what next occurred with reference to yourself?

A. Well, there was a short interval of time that I was explaining—I don't recall the exact words—but I do remember a short interval of time later I was seized by some parties.

Q. Did you recognize the men who seized you?

A. I recognized two of them.

Q. And who were they?

A. Tisdale, I believe, was one of the boys' names, and Sailsbury, I believe, was the other boy's name.

Q. Will you tell us what they did when what you have described as "they seized you," occurred?

A. Each of them seized an arm and someone behind was pushing [868] on me, and I was forced out of the gin lot there, the property.

Q. And what next occurred?

A. We entered the office.

Q. What office? A. Mr. Hammond's office.

Q. And did those, the men you have named, still have you by the arms, and was someone pushing you on the back at the time you entered the office?

A. I don't think so.

Q. Will you describe how you entered the office on that occasion?

A. I think that they had partially relinquished the pressure; they might have had ahold of my arm; anyway, they were right up against me.

(Testimony of L. A. Spear.)

Q. And to whose office did you go on that occasion?

A. I went to Mr. Hammond's office.

Q. And is that Gordon Hammond? A. Yes.

Q. What occurred while you were in Gordon Hammond's office, if anything?

A. Nothing occurred. There was some talk outside.

Q. And when you say "outside," what——

A. (Interrupting): I mean in the hallway.

Q. In the hallway outside of the office, is that correct?

A. The hallway of the office building. [869]

Q. Did anything occur while you were in the office itself?

A. Not that I can recall.

Q. While you were in the office of Gordon Hammond's on that occasion, do you recall whether or not Mr. Louis T. Robinson appeared at that time?

A. He did not appear in the office. I heard his voice out in the hall somewhere. I heard his voice.

Q. You mean that his voice came from the hallway, is that correct?

A. That is correct.

Q. And is that the hallway where these other men were standing outside of Gordon Hammond's office? A. Yes.

Q. Will you state what you heard Mr. Louis T. Robinson say on that occasion?

A. He told the men to go on back to work, that he would come down and straighten it out, straighten out the trouble.

(Testimony of L. A. Spear.)

Q. At that time, or immediately after that time, did these other men in the office and the hall leave the office and hall respectively?

A. We all left immediately.

Q. Did you on that occasion see a number of these other employees go to various parts of the plant from the hall and from the office of Gordon Hammond?

A. Yes; every man left and went to his job.[870]

Q. Did you, yourself, on that occasion leave the office of Gordon Hammond and return to Number One gin? A. I did.

Q. Will you state what occurred after you returned to Number One gin on that occasion?

A. I started my two cleaners, which are electric driven, each one is a separate dryer. I started both of them up.

Q. Are they part of the gin? A. They are.

Q. And does the ginner ordinarily start those motors when he engages in the operation of ginning?

A. Yes. That is the first operation.

Q. Will you state what you next did at that time?

A. I went over to my clutch lever and was waiting for the engine to start.

Q. Will you explain what the clutch lever is?

A. That is the main drive for the gins; it is driven by a large gas engine, and it has a clutch on the shaft.

Q. After the motors are started, is that the way you start your gin, by throwing in this clutch?

(Testimony of L. A. Spear.)

A. These cleaners are separately driven, you understand, and naturally they have to be started first. They are electric driven, but the main power plant is by a big gas engine which runs the fan and the big-line shaft that operates the gins. It has a clutch. [871]

Q. Well, at that time did you start your gin to operating?

A. The big engine had not started, and I was waiting for it to start.

Q. How long did you wait there, approximately?

A. Oh, probably a couple of minutes; two or three, four or five minutes, something like that; very short time.

Q. What then occurred?

A. I saw three men file in through the gin building.

Q. Did they come into the building where your gin is located, that is, the Number One gin?

A. They came into the place that separated the two gins, I might say the hallway or alley between the two gin stands.

Q. And which gin stands?

A. Number one and Number two gins.

Q. And are those Number one and two gins in the same building? A. They are.

Q. Now, will you describe the men who came into the building on that occasion?

A. They went in to the starting switch on Number two.

(Testimony of L. A. Spear.)

Q. Let us have their names, Mr. Spear. Who were those men?

A. Mr. Kelly Hammond and Mr. Burdine and Mr. Mitchell.

Q. And who was Kelly Hammond?

A. He is a man employed at the mill.

Q. Any relation to Tom, Joe or Gordon Hammond? [872]

Mr. Painter: Objected to on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: I am not sure. I have heard that he is related, but I don't know just what. I think he is a cousin or something like that, or a nephew; maybe something like that. I don't know just what it is.

Mr. Painter: Just a moment. I move to strike that answer as being hearsay.

Trial Examiner Lindsay: The answer may stand.

Q. (By Mr. Mouritsen): Do you know Mr. Mitchell's initials or his first name?

A. No, I do not.

Q. And Mr. Burdine, do you know his initials or first name? A. No, I do not. [873]

Q. Do either of them have any nickname by which they are known in the plant?

A. They might have. I don't recall it at the present time.

Q. Will you state what you saw Mr. Burdine, Mr. Mitchell and Kelly Hammond do on that occasion?

(Testimony of L. A. Spear.)

A. Mr. Hammond, he pushed the button that stopped Mr. Farr's gin, the gin stand.

Mr. Painter: That is Kelly Hammond?

The Witness: That is Kelly Hammond.

Q. (By Mr. Mouritsen): What did you next observe them do, if anything?

A. Burdine and Mitchell didn't do anything. A short interval of time later, a very short interval of time, Mr. Bill Robinson came in.

Q. Who is Bill Robinson?

A. He is a man employed there as a sub-foreman and repairman, trouble shooter.

Q. I believe you stated that you worked as a ginner practically all of the time you worked at the plant, is that correct?

A. Off and on as a ginner.

Q. Did Mr. Bill Robinson ever have any connection with your work at the gins?

A. Oh, yes. [874]

Q. Will you state the connection that Mr. Bill Robinson had with your work on the gins?

A. Well, he gives orders, what to do if anything went out of the ordinary, helped make the place run, keep it in operation.

Q. Well, did he on a number of occasions give you orders about your work in the gin?

A. Yes, he did.

Q. Did you on a number of occasions see him or hear him give orders to other employees in the gin?

(Testimony of L. A. Spear.)

A. Well, I don't know as I paid very much particular attention. I always worked by myself and lots of noise there and I had heard him give orders, but I don't recall any specific time.

Q. Well, the question is, did you see him or hear him give orders to other employees in the gins?

A. Well, yes; I have. I have heard him give orders.

Q. Now, the orders that he gave you regarding your work in the gins, did you carry those orders out? A. Yes, I did.

Q. And did you observe any of the other employees carry out orders that you heard Bill Robinson give them?

A. Oh, yes. He knew his business. He gave the orders right. That is his job.

Q. Well now, did he on a number of occasions tell you when [875] to come and when not to come to work?

A. Yes, he has told me when to come to work and not to come to work.

Q. And on the occasions when he told you to come and not to come to work, did you follow out those orders? A. Oh, yes.

Q. Now, will you describe what, if anything, you observed Mr. Bill Robinson do at that time?

Mr. Painter: Objected to, incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

Mr. Painter: No authority shown.

(Testimony of L. A. Spear.)

The Witness: He stopped the fan motor that runs the fans.

Q. (By Mr. Mouritsen): On your gin?

A. No, Mr. Farr's gin.

Q. Will you continue and describe what you observed Mr. Robinson do at that time?

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: Well, Mr. Farr asked him, first, I believe, if I might state, that just an instant before Bill stopped these motors he says, "Here, boys, this won't do——"

Mr. Painter (Interrupting): Just a moment, your Honor. I am going to object to this conversation. I don't [876] believe it is called for by the question—as being hearsay, not binding upon these respondents, and no authority shown.

Trial Examiner Lindsay: He may answer.

The Witness: What was that question?

Mr. Mouritsen: I will reframe it, Mr. Spear.

Q. At that time did you hear—strike that.

Just prior to the time when you observed Mr. Robinson shut Mr. Farr's fan off, did you hear him say anything? A. Yes, I did.

Q. And who were present at that time?

A. Well, I think Kelly and Burdine and Mitchell would easily have heard him make that statement.

Q. They were still in the building?

A. They were right there.

Q. And was Mr. Farr also present?

(Testimony of L. A. Spear.)

A. He was, as well as I recall, he was up at the other end of the gin. He probably did not hear the statement.

Q. Now—pardon me—will you state what Mr. Bill Robinson said on that occasion?

Mr. Painter: Objected to as hearsay, not binding upon these respondents, no proper authority shown.

Trial Examiner Lindsay: The objection is overruled. He may answer.

The Witness: He stated, "Here boys, this won't do. Mr. Robinson wants the machinery to run." It might have [877] been, "the work to go on." I am not sure about that.

Q. (By Mr. Mouritsen): But you have given us in substance what you recall he said, is that correct?

A. Yes.

Q. Now, will you state what next occurred after you observed Bill Robinson shut off the fan for Mr. Farr's gin?

A. Well, it took a short interval of time for the machinery to stop, and then Mr. Farr came walking down and he seemed to be naturally interested in why the machinery stopped.

Q. Well, did he say anything to Mr. Bill Robinson or Kelly Hammond that you heard?

A. Well, right at that time, before he got down there, he didn't say anything because it was noisy, you see. The machinery was still running to a certain extent.

Q. Well, after the machinery stopped running, did you hear Mr. Bill Robinson say anything or Mr. O. L. Farr say anything?

(Testimony of L. A. Spear.)

Mr. Painter: Objected to, incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: As well as I remember, he asked—

Mr. Painter: Just a moment. If this is going to call for a conversation, I will also object on the ground it is hearsay, not binding on these respondents. [878]

Trial Examiner Lindsay: Strike the ruling.

Now, have you got it all in there, Mr. Painter?

Mr. Painter: Yes, your Honor.

Trial Examiner Lindsay: All your objection.

Now you may answer.

The Witness: First Bill stated that—first the other boys, somebody yelled, “We are not going to work with these union men.”

Q. (By Mr. Mouritsen): Did you identify the person who made that statement or who yelled that statement?

A. No, I did not identify them.

Q. Very well.

Now, after you heard someone yell the statement you have given us, did you hear O. L. Farr say anything to Bill Robinson?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Bill Robinson made the first statement.

Mr. Mouritsen: Very well.

Q. What did Bill Robinson say to Mr. Farr and what did Mr. Farr say to Bill Robinson?

(Testimony of L. A. Spear.)

Mr. Painter: Objected to as hearsay, not binding on these respondents, no authority shown.

Trial Examiner Lindsay: He may answer. You may have [879] an exception.

The Witness: Let me have that again.

Trial Examiner Lindsay: Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

The Witness: Bill said, "If you union boys can't operate this place, you'd better go home until we get this straightened out."

Q. (By Mr. Mouritsen): And did Mr. Farr say anything at that time?

Mr. Painter: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

Will you step down a minute, please?

(The witness stepped down from the witness stand.)

Trial Examiner Lindsay: Will you gentlemen come up here, please?

(Conference between counsel and the Trial Examiner at the bench.)

(The witness resumed the stand.)

Trial Examiner Lindsay: Read the last question and answer.

(The record referred to was read by the reporter, as set forth above.)

The Witness: He asked Bill if that was an order.

(Testimony of L. A. Spear.)

Q. (By Mr. Mouritsen): And did Robinson say anything? [880]

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: He said, "No, that is a request."

Q. (By Mr. Mouritsen): Any further conversation take place at that time that you recall?

A. Bill stated that——

Mr. Painter (Interrupting): Just a moment. If this is going to call for a conversation, we make the same objection on the ground of hearsay.

Trial Examiner Lindsay: Same ruling.

The Witness: Bill stated that he only wanted to straighten the trouble out and he thought it would be a good idea for us to go home until we got this matter ironed out, something to that effect. I don't just remember the exact words.

Q. (By Mr. Mouritsen): How long do you recall you remained in the building where the No. 1 gin is housed after you returned from Gordon Hammond's office on that morning?

A. Oh, possibly ten or fifteen minutes, I guess. It could have been thirty, but I don't think so.

Q. Well, do you have any definite recollection as to how long you remained there after you returned from Gordon Hammond's office?

A. I had some conversation with Kelly right after the statement—— [881]

Mr. Painter (Interrupting): Your Honor, I object to this conversation as hearsay, not binding upon these respondents, and not responsive to any question.

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Sustained on the ground that it is not responsive to the question.

Mr. Mouritsen: Now, will you—I will restate the question as it will probabaly save time.

Q. Do you have any definite recollection, Mr. Spear, as to how long you remained in the gin house after you returned from Gordon Hammond's office?

A. No definite time, no. I couldn't say exactly how long.

Q. According to your best recollection it was ten to thirty minutes, is that correct?

A. Yes. I was quite upset at the time.

Q. I mean—what was the reason why you were upset?

Mr. Painter: Just a minute. I object to that as calling for a conclusion of the witness; incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

The Witness: Well——

Mr. Mouritsen (Interrupting): No, Mr. Trial Examiner has ruled you can't answer that.

Q. Now, after you heard the conversation that took place between Bill Robinson and O. L. Farr, did you have a conversation after that time with Kelly Hammond? [882]

Mr. Painter. Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Yes.

Q. (By Mr. Mouritsen): And was anyone else

(Testimony of L. A. Spear.)

present other than you and Mr. Kelly Hammond?

A. I believe that Joe Hammond, Mr. Burdine and Mitchell were still there.

Q. Now, will you state what Mr. Kelly Hammond said at that time and what you said to Mr. Kelly Hammond?

Mr. Paiter: Objected to as hearsay, not binding upon these respondents, no authority shown.

Trial Examiner Lindsay: He may answer.

The Witness: He asked me if I was going to pay union wages when I started farming.

Q. (By Mr. Mouritsen): Did you make any answer?

Mr. Painter: Same objection.

Trial Examiner Lindsay: He may answer.

The Witness: I told him I didn't know whether I would ever start farming or not; I hadn't got any land to farm.

Q. (By Mr. Mouritsen): Well, at that time was anything further said by you to Mr. Kelly Hammond or by Mr. Kelly Hammond to you?

Mr. Painter: Objected to as being incompetent, irrelevant and immaterial. [883]

Trial Examiner Lindsay: He may answer.

The Witness: Oh, there was several words. I don't recall what the conversation was.

Q. (By Mr. Mouritsen) Now, what did you next do after your conversation with Kelly Hammond was finished?

A. As well as I recall, I sat down on the stairs.

(Testimony of L. A. Spear.)

In fact, I was stalling for time. I was waiting for somebody to come around.

They didn't ever come so I thought it was about —someone suggested that I depart, so I did.

Q. Now, before you departed did Louis T. Robinson ever come out and straighten the thing out?

A. No.

Q. Did anyone else come out and straighten the thing out, to your knowledge?

A. No.

Q. And after you departed from the plant where did you go on that occasion?

A. I started home and I passed by Mr. Farr's house and I saw a number of cars there which I recognized, so I stopped in there.

Q. Now, during the course of your employment with the J. G. Boswell Company did you ever have a conversation with Tom Hammond about his putting pressure on the boys?

Mr. Painter: Objected to as incompetent, irrelevant and [884] immaterial, calling for hearsay, and it is leading and suggestive.

Trial Examiner Lindsay: He may answer.

The Witness: I never had a conversation with Tommy about it.

Q. (By Mr. Mouritsen) Did you ever have a conversation with Gordon Hammond about the same subject matter?

A. I had a conversation with Gordon regarding pressure, but I never mentioned any names. I never told him who was exerting the pressure.

(Testimony of L. A. Spear.)

Mr. Painter: May I have that answer read?

Trial Examiner Lindsay: Yes. Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) Where did you have the conversation with Gordon Hammond about the pressure being put on the boys?

A. In Mr. Hammond's office.

Q. About when—what was the approximate date of that conversation?

A. Just before the mill started.

Q. What year?

A. Oh, that was '38. I think it was just about the 10th of October or some time around there, or the 5th of October. I don't just remember the time.

Q. Well, what is your best recollection as to the approxi- [885] mate date?

A. Oh, two or three days before the mill started in October.

Q. Of 1938? A. Yes.

Q. Was this a conference—strike that.

Was Mr. Prior present at that conference?

A. No, Mr. Prior was not present.

Q. Other than yourself and Mr. Gordon Hammond, was anyone else present?

A. Yes, there was others.

Q. Will you name them, please?

A. Mr. Martin and, I believe, Mr. Farr was there.

Q. Yes.

(Testimony of L. A. Spear.)

Will you state the conversation that took place at that time between yourself or any of these others and Mr. Gordon Hammond?

A. Well, that was a conference—several things was discussed there.

We discussed a little bit about the pressure that was being exerted on some of the prospects, prospective members.

Q. Will you state what was said in that regard, Mr. Spear? What was said by any of the boys present and what was said by Mr. Gordon Hammond respecting the pressure put on the boys, or the prospective boys as you say?

Mr. Clark: Well, may it please your Honor, I object to [886] that manner of going into the conversation. This is direct examination. Let us go into the whole conversation. Counsel's question is leading and suggestive, and not the proper manner of going into the question on direct examination.

Trial Examiner Lindsay: Read the question.

Let us have any conversation he has had.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: He may answer that question.

The Witness: The conversation was general. I don't remember any specific words. I think I merely mentioned the fact to Mr. Hammond that pressure was being brought to bear on some of the prospects that we had and we talked a little bit about it and

(Testimony of L. A. Spear.)

dropped the matter. I just mentioned the fact it had been brought to my attention that pressure and threats had been brought to bear on some of the boys and I just mentioned that to him for his own benefit, so that he could investigate if he wanted to. Otherwise he could forget the matter. I just mentioned it to him for courtesy. I thought maybe he ought to know it.

The main purpose of the meetings was other things.

Mr. Painter: I think this called for a conversation. May we have the answer responsive to the question?

Trial Examiner Lindsay: Just a moment. That answer may stand. [887]

Q. (By Mr. Mouritsen) Will you state what else you can recall of the conversation that was had between Mr. Gordon Hammond and the other men and yourself that you have named as being present at this time?

A. You mean other conversations?

Q. Well——

A. (Interrupting) Regarding the pressure as I mentioned?

Q. As I understand it, Mr. Spear, you have talked about part of the conversation about the pressure.

Now, I want all of the rest of the conversation that you can recall.

A. Well, in order to explain that, I will have to explain why the meeting was called.

(Testimony of L. A. Spear.)

I asked Mr. Hammond to meet us boys up there at a conference.

Q. Well, you had made a request for a conference prior to the time this conference was held, is that right? A. I did.

Q. After you made that request, you met with Mr. Gordon Hammond, is that correct?

A. Yes, I did.

Q. Is there any other explanation that you have as to why you had met at a conference at this time?

A. We wished to talk over a lot of things with Mr. Hammond. That was the purpose. [888]

Q. That was the purpose of the conference, is that correct?

A. Yes, that was the main purpose.

Trial Examiner Lindsay: I think this is a good point here to adjourn. It is a little after 4:30. We will pick up here in the morning at 9:30.

(Whereupon, at 4:32 o'clock p. m., an adjournment was taken until 9:30 o'clock a. m., the following date.) [889]

American Legion Hall,
Corcoran, California,
Friday, May 26, 1939. [890]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Ready for the Respondents.

Mr. Mouritsen: Ready for the Board, Mr. Examiner.

Trial Examiner Lindsay: Let the record show that the time to answer for the Respondent to the amendment to the complaint expires on Tuesday night, and there will be no objection to having the answer, the amended answer, put in on Wednesday, the following day, or, in fact, the day after.

Mr. Clark: Thank you very much, your Honor.

Trial Examiner Lindsay: Is that agreeable?

Mr. Mouritsen: That is the amendment to the amended complaint?

Trial Examiner Lindsay: Yes, regarding——

Mr. Mouritsen (Interrupting): James W. Gilmore?

Trial Examiner Lindsay: The Gilmore matter.

L. A. SPEAR

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Direct Examination

Mr. Mouritsen: Mr. Examiner, the witness has informed me that he has difficulty in hearing in one of his ears, and may counsel be instructed to speak loud enough so that he can hear?

Mr. Clark: Yes.

Q. (By Mr. Mouritsen): Now, Mr. Spear, I believe yesterday [892] when we concluded the taking of the testimony, you were testifying regarding a conference in October that you had with Mr. Gor-

(Testimony of L. A. Spear.)

don Hammond. I believe you testified that you and several other employees were present.

Do you recall the meeting? A. I do.

Q. And I believe you testified that it was either around the 5th of October, 1938, or around the 10th of October, 1938. Is that correct?

A. It was somewhere around there. It was before the mill had started; two or three days.

Q. And I believe that at the time we concluded taking the testimony, you had testified as to part of the conversation that took place.

Do you recall that? A. Yes, I do.

Q. Now, will you now state, Mr. Spear, what was said at that time by any of those people present?

A. Well, the conversation was general. The meeting was for the purpose of working out a schedule for the mill and the gin, working hour schedule.

Q. What was said——

Trial Examiner Lindsay (Interrupting): I am sorry. I promised Mr. Wingrove I would wait until he got back, and I forgot it. [893]

(At this point Mr. Wingrove entered the hearing room.)

Trial Examiner Lindsay: I am very sorry. I came right up here and forgot.

Mr. Wingrove: I did not mean to hold up the proceedings.

Trial Examiner Lindsay: Do you want the two or three questions re-read, and the answers?

(Testimony of L. A. Spear.)

Mr. Wingrove: I would, if it is not too much trouble.

(The record referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: And to conclude that question:

Q. What was said at that time regarding the work-hour schedule of operation, or hours, for the mill?

Mr. Clark: This is with Gordon Hammond, of course, is that not right?

Q. (By Mr. Mouritsen) Gordon Hammond was present at this conversation, is that correct?

A. Yes.

Mr. Clark: Very well.

Q. (By Mr. Mouritsen) State, in substance, what Mr. Hammond said and what anyone else present at that time said regarding the schedule of hours?

A. Well, they made an agreement there——

Mr. Clark (Interrupting): Just a minute, your Honor.

Mr. Mouritsen: I agree that that may go out.

Q. Now, Mr. Spear, just state what was said, as nearly as [894] you can recall?

A. I don't remember anything definite said in words.

Q. I don't want the exact words or a verbatim statement. Just give us, in substance, what was said, the gist of it, as you recall it.

A. Well, I just started to do that.

(Testimony of L. A. Spear.)

Q. Well, now, Mr. Spear, you started to give us a conclusion that an agreement was reached. What I want to know is what was said about an agreement at that time?

Mr. Clark: If anything.

The Witness: O. K.

I don't know what you mean.

Trial Examiner Lindsay: I will explain it to you. Is that agreeable?

Mr. Clark: Oh, surely.

Trial Examiner Lindsay: Now, all the attorney for the Board wants you to tell us about is what did you say to Mr. Hammond, or what did Mr. Hammond say to you, or what did anyone of the other boys who were with you say to Mr. Hammond or Hammond to them. Is that plain?

The Witness: Yes, that is plain enough.

I told Mr. Hammond there had been some pressure put on the boys, some of our prospective members, and I told him that for his own benefit and he could do whatever he wanted to about it, but I just mentioned the fact that I had had this [895] brought to my notice. That is one of the things that I mentioned to Mr. Hammond.

Q. (By Mr. Mouritsen) Now, did Mr. Hammond say anything to you after you made that statement to him?

A. Well, I don't remember the exact words, but the gist of his conversation was that if there was anything like that going on, he didn't know anything

(Testimony of L. A. Spear.)

about it, and he didn't authorize it; he absolutely didn't authorize anything like that. [896]

Q. Yes. Now, was there any further conversation at that time that you recall?

A. I asked him if it would put him on the spot if we would post up a notice in the machine shop stating that there would be no discrimination against anyone joining the union.

Q. Now, did he say anything when you asked him that? A. Yes, he did.

Q. What did he say?

A. He said, yes, he guessed it could but he would rather not at this time. That is the very words he said.

Q. Now, at that time was there any further conversation between you and Mr. Gordon Hammond?

A. Not about that subject. There was other things.

Q. All right.

Now, will you tell us what was said about other things at that time either by yourself or by Mr. Gordon Hammond?

A. Well, the conversation was about the hours and the number of men to be employed in places and so forth.

Q. Now, will you state as nearly as you can recall, and I mean only in substance, what was said by Mr. Gordon Hammond about those subjects and what was said by you or some of the other boys present about those subjects?

(Testimony of L. A. Spear.)

A. Well, in regard to the hours, he was willing to work out some plan.

Q. Is that—when you say “he,” you refer to Mr. Gordon [897] Hammond, is that correct?

A. Yes.

Q. Did he say he was willing to work out some plan?

A. Yes, he did.

Q. Now, continue.

A. Well, we talked the matter over and owing to several factors—he showed me a letter from J. G. Boswell. In this letter Mr. Boswell stated at the present time he would rather not start the plant; that he could hold the seed in the seed house better than he could than if he put it in the warehouse in the cakes.

Mr. Clark: I wonder if you would fix the best you can the date of this letter, if the witness remembers it?

The Witness: Mr. Hammond can tell you about that. He has the letter.

Q. (By Mr. Mouritsen) Do you recall whether or not there was any date on that letter?

A. No, but this letter was—he had the boys—signature of the boys that had signed only as to whether or not they was to work 8 hours or 12 hours. That was a letter that Mr. Hammond had passed around to the boys.

In this letter Mr. Hammond stated—Mr. Boswell stated, that he didn't care whether they worked 12 hours or worked 8 hours. [898]

(Testimony of L. A. Spear.)

Q. Now, when you state that that letter was passed around among the boys, to what people do you refer?

A. Well, all I know of is Joe Briley and Andrade and that is the only ones that told me about it. I saw some other names on the paper. I didn't pay no attention to the names.

Q. Well, now, on this letter that you saw at the time, there were a number of names, is that correct?

A. Yes, there was.

Q. Now, will you tell us what further conversation took place at that meeting?

A. Well, in order to keep some of the boys from being laid off at the gin, we had a few number around there that we didn't really need. In other words, they was on the payroll and they wasn't doing very much work. That is——

Q. (Interrupting) No.

I move that all of the witness's answer after the expression go out as not responsive.

Mr. Clark: May I have the question read back, your Honor, before there is a ruling?

Trial Examiner Lindsay: Yes. Read the question. Read the question and the answer.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I submit that should stay, may it please your Honor, if it was part of this conversation. [899]

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: That is what I was going to find out.

Did you say that to Mr. Hammond?

The Witness: I didn't say that to Mr. Hammond. I don't think I did. I was just stating that to be a fact. I knew that to be a fact. That is my opinion. That is, if I had been foreman, that would have been my opinion.

Mr. Clark: I submit, Mr. Examiner, it should stay in. It could very well stay in rather than put me to the time and so forth of developing it on cross examination. It isn't quite responsive to the question, but it would have to come in on cross examination.

Mr. Mouritsen: It isn't at all responsive. I am trying to find out what happened at this conference. The witness has given a number of his conclusions. If counsel wants to go into that on cross examination, that is his prerogative.

Trial Examiner Lindsay: I think the question should be answered. It may go out.

Q. (By Mr. Mouritsen) Now, Mr. Spear, directing your attention more closely to the question, what further was said at that conference at that time?

A. Well, I don't recall any words without having my memory refreshed by some incident.

Q. Well——

A. (Interrupting) I can tell you the gist of the conversation [900] and when this comes along, I can tell you the exact words that were spoken.

(Testimony of L. A. Spear.)

Q. That is what I am trying to get, Mr. Spear, the gist of the conversation that you recall from that time on.

A. Well, I can lead up to the matter by stating that we finally agreed on certain hours.

Q. No. I move that that go out as not responsive, Mr. Examiner.

Trial Examiner Lindsay: Let us try and listen to the questions.

Are you hearing his questions all right?

The Witness: I hear the questions, but I don't "savvy" what he means. That is all there is to it.

Trial Examiner Lindsay: Read the last question.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Mr. Spear, that merely means that you are to try and tell what you said to Mr. Hammond and what Mr. Hammond said to you, and if the other boys who were with you said anything, then tell what they said, and what Mr. Hammond said. Does that explain it?

The Witness: That is O. K.

Mr. Clark: May it please the Examiner, do I understand that the part of the answer referring to some agreement having been made does go out in response to Mr. Mouritsen's motion? [901]

Trial Examiner Lindsay: Yes.

Mr. Clark: Very well.

Trial Examiner Lindsay: Mr. Spear, on account

(Testimony of L. A. Spear.)

of his hearing, probably didn't quite understand all of this.

The Witness: I understood the words, but I don't get exactly what he means. I can lead up to the conversation and tell what it is.

Trial Examiner Lindsay: Now, you understand, don't you?

The Witness: I did. I was going to state, but now I have forgotten.

Trial Examiner Lindsay: Will you read that explanation I gave?

(The record referred to was read by the reporter, as set forth above.)

The Witness: All right.

I told Mr. Hammond that—he asked me if we was representing the Union members. I told him as a committee, why, we were representing the Union members.

Trial Examiner Lindsay: Anything else?

The Witness: Well, I don't recall anything else. the very words. I made this statement to him.

Mr. Clark: I suggest, Mr. Examiner, that the witness also be instructed that all he is expected to give us is the substance of the words, not a direct recollection of them. None of us could do that, I am afraid. [902]

Trial Examiner Lindsay: Yes. Just tell us if he said anything else, or if you said anything else.

The Witness: I don't remember the words.

Trial Examiner Lindsay: You don't have to.

(Testimony of L. A. Spear.)

Just tell us what you remember as the gist of the conversation.

The Witness: Well, he was willing to talk the matter over. He recognized us as the——

Mr. Mouritsen (Interrupting): I move that go out as not responsive.

Mr. Clark: I move that stay in, Mr. Examiner. If that is the best the witness can do towards giving us the gist, I think it answers that purpose.

He says—the gist is, he was willing to talk the matter over. After all, all of us have different capacities in this regard.

Trial Examiner Lindsay: Well, the answer may stand, and you may go into it further. [903]

Q. (By Mr. Mouritsen) Now, Mr. Spear, do you recall anything further that was said at that conference other than that which you have already given us?

A. Oh, we talked and talked there for quite a while. I don't remember the exact words.

Q. Very well. Now, during the month of September did you—strike that.

During the month of November 1938 did you have a conversation with Tommy Hammond about the union?

A. Never talked to Tommy about the union.

Q. Well, during the month of November, 1938, did you have a conversation with Tommy Hammond in which conversation the name Walter Winslow was mentioned?

A. Yes, I did.

(Testimony of L. A. Spear.)

Q. Now, when did that conversation take place as best you can recall?

A. Well, that was on the day we met Gordon again. Mr. Gordon Hammond and myself and Prior, Mr. Farr.

Q. How long before November 18, 1938, did your conversation with Tommy Hammond take place?

A. Well, if you want to call that a conversation—it wasn't much of a conversation—but he came over to see me. I think that was the day before we was thrown out.

Mr. Clark: I move that the witnesses comment, "We were thrown out," be stricken from the record as his conclusion. [904] That is something for your Honor to determine from the record of this case, one way or the other.

Trial Examiner Lindsay: It may go out.

Q. (By Mr. Mouritsen) Now, where were you when Tommy Hammond came to see you on that occasion?

A. I was working on No. 1.

Q. No. 1 gin? A. Yes.

Q. And when Tommy Hammond came to see you, was anyone else present other than you and Mr. Tommy Hammond?

A. Not right by us.

Q. Was there anyone nearby who could hear the conversation?

A. Mr. Farr—he was about 20 feet away, he just had a row with him about something.

Q. Now, what did Mr. Tommy Hammond say to you on that occasion and what did you say to him, if anything?

(Testimony of L. A. Spear.)

Mr. Clark: Just one minute, please. I will object to that on behalf of all respondents upon the ground it calls for hearsay and is not binding upon any of the respondents in this proceeding; no authority having been shown from the respondent Boswell to Tommy Hammond to speak for it in regard to any of the issues under investigation in this proceeding.

Trial Examiner Lindsay: He may answer. [905]

The Witness: I don't remember the question now.

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

The Witness: Oh, he come howling over there and asked me if Walt Winslow had told me that he threatened to have him fired about something or other, about union work or something.

Q. (By Mr. Mouritsen) Who is Walt Winslow?

A. He is a man that worked in the mill.

Q. Was he employed at that time by the J. G. Boswell Company?

A. Well, I know the mill was closed down. I don't think he was working at the time.

Q. Do you know whether or not he was laid off at that time?

A. Yes, he was laid off when the mill shut down. He was laid off.

Q. Do you recall anything further that was said at that time, either by yourself or by Mr. Tommy Hammond?

(Testimony of L. A. Spear.)

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

The Witness: Well, Tommy said he was liable to lose his job. He asked me if Walt Winslow had told me that he had threatened to have him fired for union work, union activity. [906]

Q. (By Mr. Mouritsen) Well, did you make any answer?

A. I told him that I was not at that time in a position to tell him whether he had told me or not.

Mr. Clark: By "he" may I have indicated who the witness means?

The Witness: Walt, Walt Winslow.

Mr. Clark: Whether Walt had told you that or not?

The Witness: Yes.

Q. (By Mr. Mouritsen) Now, on that same day did you and a number of other employees have a conference with Gordon Hammond?

A. Yes, we did.

Q. Was the conference with Gordon Hammond before or after this talk you had with Tommy Hammond? A. It was before.

Q. And where did that conference take place?

A. Over in Gordon's office.

Q. Who were——

A. (Interrupting) That is, it wasn't Gordon's office, it was the south office.

Q. Well, at least it was in the office building in the plant, is that correct? A. Yes.

(Testimony of L. A. Spear.)

Q. Do you know—can you specify the office any better than by the south office? [907]

A. Well, it was adjoining the waiting room. It was on the west of the waiting room. I guess that is what you would call the waiting room.

Q. Now, who else were present other than yourself and Mr. Gordon Hammond?

A. Mr. Prior and Mr. Farr.

Q. Anyone else? A. I don't think so.

Q. Now——

A. (Interrupting) Yes, Mr. Martin was there.

Q. Now, will you—strike that.

Do you recall the time of day of that conference?

A. Well, it was in the morning about 10:00.

Q. And about how long before the later conversation you had with Tommy?

A. Well, I guess that was about an hour and a half or two hours.

Q. It was an hour and a half or two hours before you had a conversation with Tommy Hammond?

A. It could have been three hours.

Mr. Clark: May I ask, Mr. Examiner, whether this was on the morning of November 17th.

Mr. Mouritsen: Now, Mr. Examiner, I think I am entitled to conduct the examination of my own witness. The time has been fixed as the day before November 18, 1938. [908]

Mr. Clark: All right. I just wanted to be sure, is all.

Trial Examiner Lindsay: Proceed.

(Testimony of L. A. Spear.)

Q. (By Mr. Mouritsen) Now, will you state what if anything was said at that conference regarding Tommy Hammond, and I refer to the conference in the office with Gordon Hammond.

A. I don't think Tommy Hammond's name was mentioned. I am pretty sure it was not mentioned.

Q. Well, will you state—I withdraw that.

Q. Now, directing your attention back to the conversation that you related with Tommy Hammond, did Tommy Hammond make any reference to the prior meeting that you had had with Gordon Hammond?

A. He did not.

Q. Very well——

A. (Interrupting) No mention at all.

Q. Now, after November 18, 1938, did you ever have a conversation with Gordon Hammond relative to the union?

A. After November 18th?

Q. After November 18, 1938.

A. Well yes, we had a meeting the next morning after we was throwed out.

Mr. Clark: May I ask that “after we were thrown out” be stricken out? [909]

Trial Examiner Lindsay: Yes.

Q. (By Mr. Mouritsen) Where did this conference take place?

A. Mr. Hammond's office.

Q. And who were present at that conference?

A. Well, two or three different ones.

Q. Well, would you state their names, if you can recall them?

A. Either Martin or Farr and Mr. Prior and

(Testimony of L. A. Spear.)

myself. I think it was Mr. Martin was present. I don't think Farr was there.

Q. Now, at that conference on the day after you left the plant, was the subject of the reinstatement of the men who left on November 18, 1938, discussed?

A. After Louis came in the matter was discussed.

Mr. Clark: Mr. Examiner, may I have the witness indicate who he means by "Louie"?

Trial Examiner Lindsay: Yes. Tell us who "Louie" is.

The Witness: That is Mr. Robinson.

Q. (By Mr. Mouritsen) Louis T. Robinson?

A. Yes.

Q. Well now, after that conference did you ever have a personal conversation with Mr. Gordon Hammond regarding the union?

A. Later on I did, after we were ejected from the plant. [910]

Q. Well now, I mean after this conference you have described as taking place on November 19th, or the day after you left the plant on November 18, 1938.

A. Yes, I met Gordon Saturday afternoon.

Q. Well now, is that—can you place that date with reference to the day when you last worked at the plant and when you left the plant?

A. That was the next day.

Q. All right.

Now, was it the same day you had this conference

(Testimony of L. A. Spear.)

with Mr. Gordon Hammond at which Prior and Martin were present?

A. I think it was the same day. I know I went up in the afternoon.

Q. Well, had this other conference that you described as taking place in Gordon Hammond's office, had that taken place in the morning of that day?

A. Yes, it had.

Q. All right. Now, where did you see Gordon Hammond on the afternoon of that day?

A. In his office.

Q. Was anyone else present other than you and Mr. Gordon Hammond?

A. Several boys came in, but they didn't stay very long.

Q. Well, who were the boys that came in? Did you recognize any of them? [911]

A. One of the boys that stayed in there for a while and talked was Shorty Henderson.

Q. Is he an employee of the plant?

A. No, not now.

Q. Well, was he at that time?

A. No, he wasn't.

Q. Did any of these people that came in and then left take any part in the conversation that you had with Gordon Hammond?

A. No.

Q. Will you state the conversation that took place at that time between you and Gordon Hammond, if any conversation took place?

(Testimony of L. A. Spear.)

A. Well, when I entered and sat down Gordon says, "Now, Lonnie, you see what this union business has led to. You can't hope to put it over," or, "it won't go over.

"Now," he said, "We don't hold any hard feelings toward you because we figure you have been influenced to join something that is not good for your own interest, and if you will drop this union business you can come back to work."

Q. Now, in that conversation was anything said regarding other union members?

A. Well yes, there was.

Q. Now, will you state what was said in that conversation regarding the other union members?

A. I told him I wouldn't come back unless the other boys could come back. [912]

Q. What did he say, if anything?

A. Well, he said, "You can come back and some of the others can come back, but I don't know about some of the others." He said, "I don't think they can come back."

Q. Do you recall any further conversation that took place at that time?

A. Well, several things. I just don't recall them right at the present time. If my memory was refreshed on the matter, I could possibly tell.

Q. At the present time, then, you have no recollection of a further conversation at that time with Gordon Hammond, is that correct?

A. We talked for a couple of hours, but we talked about first one thing and then another.

(Testimony of L. A. Spear.)

Q. Well, did any of the other things you discussed pertain to the Union or to your leaving the plant on November 18th, 1938?

A. He didn't say nothing about me leaving the plant. He stated that—something about if the Company would recognize this Union, that it would probably cause friction between us and the other boys.

Q. All right.

Now, do you recall anything further that was said at that conversation?

A. He said the boys had formed an organization the night [913] previous there in front of the office and in the office, said he didn't know what they accomplished because he was not present. He said he was there but he wasn't present.

Mr. Clark: May I have that explained a little bit, Mr. Examiner, before we leave it?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Mouritsen) Will you state what he said about being there, but not being present?

A. I took it that he was in his office and the boys were outside.

Q. In other words, Mr. Hammond was in the plant at the time, but he was not in the group of employees, is that correct?

A. The employees, from what I gathered, was in the waiting room and around the door and around the entrance of the big waiting room.

Q. Did he tell you that that was the case? In

(Testimony of L. A. Spear.)

other words, where the employees met on that occasion?

A. He didn't make no definite statement. He says, "The boys met here."

Q. And by that statement, did you understand that he meant in the plant?

A. Well, I took the statement that it would mean the waiting room and vicinity of the waiting room, because they couldn't meet in his office, the whole crowd.

Q. All right. [914]

Now, do you recall anything further that was said in this conversation with Gordon Hammond regarding the Union, the meeting of the employees on the night before at the plant, or the leaving of the plant by yourself and the other employees on November 18th, or anything related to those subjects?

A. Well, I told him I didn't think much of his union. I told him, in fact, I believe I called it a social club, that I didn't think much of his union.

Q. To what do you refer when you say you didn't think much of his union?

A. The organization there that they formed that night; they all signed up a paper.

Mr. Clark: May I have the witness indicate, Mr. Examiner, who he means by "they?"

Trial Examiner Lindsay: Yes. Who do you mean by "they?"

The Witness: All the employees that were then working for Boswell, not the Union members.

(Testimony of L. A. Spear.)

Mr. Mouritsen: Very well.

Q. Now, was anything further said at that conversation that you can recall?

A. Right at the present time, I don't think there is.

Q. All right.

Now, have you earned any money since November 18th, 1938? A. No, I haven't.

Q. Have you been employed by any concern since that time? [915] A. No.

Q. If the National Labor Relations Board should order your reinstatement with back pay, would you be willing to accept employment with the J. G. Boswell Company?

A. Not under them same conditions. I told Gordon once, afterwards, that if it was under certain conditions I wouldn't go back to work.

Q. Well, now, will you state the conditions under which you would go back to work if your reinstatement were ordered by the National Labor Relations Board?

A. Well, they would have to recognize the Union. I figure I have got a right to join a Union. I must be allowed to stay with this Union before I would go back to work. I figure that is my privilege. That is one condition that I will insist upon.

Q. Now, any others? Are there any other conditions that you would insist upon?

A. I am not very particular about the other conditions.

(Testimony of L. A. Spear.)

Q. Well, in other words, the only condition that you would insist upon would be that you be permitted to continue your membership in the Union, is that correct?

A. That is one thing. That is one thing. The others don't amount to much.

Q. Well, that is the only thing that you would insist upon, is that correct? [916]

A. That is the only thing.

Mr. Mouritsen: You may cross examine.

Cross Examination

Q. (By Mr. Clark) Mr. Spear, you are and were, during all the times we have been discussing here this morning, known as Lonnie Spear, weren't you? A. I am.

Q. Can you hear me now, clearly?

A. Yes. I would rather you get right up here.

Q. Suppose I bring my chair up here.

A. That would be fine.

(Mr. Clark moves his chair close to the witness.)

Q. (By Mr. Clark) When was this last conversation with Gordon Hammond you have just mentioned, at which you told him that you wouldn't go back to work at the Boswell plant except under certain conditions?

A. The last time was when I went up after my tool box. [917]

Q. And can you fix the time of that for us, just approximately?

(Testimony of L. A. Spear.)

A. That was just before, or after I got the letter of discharge.

Q. And when was that, please?

A. That was some time in the fore part of December. I have got the letter.

Q. I see.

And you refer to December 1938, of course?

A. Yes.

Q. And as I understand it, Mr. Spear, after you got this letter of discharge you then called at the plant to get your tools?

A. A while after that, I did.

Q. I see.

And upon the occasion of your calling at the plant to get your tools you talked to Gordon Hammond, didn't you? A. Yes, I did.

Q. Now, you had known Gordon Hammond for ten years, hadn't you? A. Yes.

Q. And during that 10-year period you and he had always been able to get along all right, hadn't you? A. Yes.

Q. You considered Gordon Hammond to be perfectly fair with [918] you, isn't that right?

A. I do.

Q. And you had reason to believe that Gordon Hammond considered you to be a good man in your job? A. I thought so.

Mr. Mouritsen: I object to that as incompetent, irrelevant and immaterial.

Mr. Clark: I want to establish the relationship between them, Mr. Examiner.

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Yes.

Mr. Clark: Very well.

Q. On this occasion when you talked this matter over with Gordon Hammond, did Gordon Hammond tell you that you could come back to work?

Mr. Mouritsen: I object to this question on the ground that it is vague and indefinite.

Mr. Clark: I will withdraw it.

Q. During this time that you talked to Gordon Hammond, Mr. Spear, while you were calling back there for your tools, did Gordon Hammond say to you in substance or effect why you hadn't come back to work? A. Never.

Q. Will you please give us, then, as nearly as you can at the present time the substance of everything said between you and Gordon Hammond at this time? [919]

Mr. Mouritsen: And that refers to the occasion when he went after his tools, is that correct?

Mr. Clark: Precisely.

The Witness: I told him I came after my tools. And he said that—well, he pointed out the wagons on No. 1 and 2. And he said, "We have a little cotton there to be ginned up there on the gin."

And he said, "You can come back to work if you want to."

And I said, "Under the same conditions?"

And he didn't say nothing, so I says, "Well, Gordon, I can't do it."

Q. (By Mr. Clark) Well, Mr. Spear, at that

(Testimony of L. A. Spear.)

time did you say to Mr. Gordon Hammond that the matter of your coming back to work was out of your hands and in the hands of Mr. Prior?

A. Not—no. I told him—we talked about the union.

Q. Yes.

A. And he asked me—at that time I heard that Mr. Prior was in town. I don't know whether Mr. Hammond told me or I told Mr. Hammond, but I had never met him; and I didn't see him any time after that on that trip.

Q. That is, you hadn't seen Mr. Prior on that particular trip?

A. And he was supposed——

Q. (Interrupting) . Is that right? [920]

A. Yes.

Q. You had met Mr. Prior before, of course?

A. Yes.

Q. I mean, many months before, isn't that true?

A. Yes, a long time.

Q. What, if anything, so far as you can remember it at this time did you tell Mr. Hammond at the time you went back to get your tool box, or your tools, rather, about Mr. Prior?

A. Mr. Prior was supposed to be negotiating a settlement with Mr. Robinson. That was his purpose up there.

Q. Mr. Louie Robinson? A. Yes.

Mr. Mouritsen: I move that the answer go out as not responsive inasmuch as the question calls for what was said at this conference.

(Testimony of L. A. Spear.)

Mr. Clark: Let me ask that question, if I may, Mr. Examiner.

Q. Are you telling us the substance of what was discussed between you and Gordon Hammond at this time? A. Yes.

Mr. Clark: All right. I move it may stay, your Honor.

Trial Examiner Lindsay: Yes, it may stay.

Now, may I suggest again: Let's try and keep our questions a little bit shorter, and that applies also to Board's counsel. A couple of your questions are pretty long. It is [921] pretty hard on a witness to follow when he starts into an answer and then to stop again and then one or two questions more interposed and then go back on the other subject.

I think we can get along faster if we will sort of follow along in a chronological order.

I would like to have that last question and answer read.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Yes. The point is, did you tell Mr. Hammond that in your conversation, that is, that Prior was supposed to be up here negotiating the contract or settlement with Mr. Robinson? Did you tell Mr. Hammond that?

The Witness: I told him or he told me.

Trial Examiner Lindsay: All right. It may stay.

(Testimony of L. A. Spear.)

Mr. Clark: All right.

Q. In other words, that was mentioned in the conversation?

A. Yes. We knew he was there or supposed to be there.

Q. Now, what, if anything, did you say to Gordon Hammond about Prior being up here?

A. I said, "All right. I won't take my tool box now. I will wait and see how this comes out and see if we can't get this matter settled."

Q. Well, Mr. Spear, did you say in substance or effect to Mr. Gordon Hammond on this occasion that the matter of your going back to work at Boswell's rested entirely with Mr. Prior? [922]

Mr. Mouritsen: I object to that as already asked and answered.

The Witness: No. [923]

Mr. Clark: All right.

Q. Did you say in substance or effect that the matter of your coming back to work at Boswell's depended upon the success of this settlement?

A. Not the success.

Q. What did you say?

A. It was understood that I was not to quit the Union. I wouldn't go back if I had to quit the Union. In other words, under the same conditions as he offered me the job before. I was willing to go back to work, ready to go back to work, but I had to wear that (indicating Union button).

Q. Mr. Spear, Mr. Gordon Hammond didn't tell

(Testimony of L. A. Spear.)

you on this occasion, which we will call the tool box conversation, that you had to quit the Union before you could come back to work, did he?

A. He told me I could come back to work, and I says, "Under the same conditions?"

And he didn't say nothing. He only nodded his head and smiled at me.

Q. How did he nod his head?

A. He did this way (nodding head affirmatively.)

Q. Affirmatively, to indicate acquiescence?

A. Yes.

I said, "Well, I can't come back to work for you. I couldn't do it." [924]

Q. Did you attend a conference which took place on or about November 28th, that being some ten days after this affair you told us about on November 18th, between Mr. Prior and Mr. Louie Robinson?

A. I didn't attend a meeting.

Q. No.

Did Mr. Prior give you a report of what happened there?

Mr. Mouritsen: I object to that as vague and indefinite. The discussions at the meeting have not been identified in any way so that the witness has a fair chance of knowing the question he is being asked.

Mr. Clark: All right. I will try to remedy that.

Q. Did you ever hear of a conversation taking place approximately on November 28th, 1938, between Mr. Prior and Mr. Louie Robinson, at which

(Testimony of L. A. Spear.)

Mr. Prior asked that the Union men be reinstated, and Mr. Robinson in turn asked Mr. Prior for a list of the men, and your name was mentioned?

A. I heard there was a meeting later—later on I heard there was a meeting. I did not hear the results of the meeting because I never saw Mr. Prior.

Q. As I understand you, Mr. Spear, you did hear some time after November 28th that there had been a meeting between Mr. Prior and Mr. Louie Robinson on the general subject of the re-employment of the members of your Union at Boswell's, isn't that right? [925]

A. I heard there had been a meeting, but I did not hear the results of the meeting.

Q. All right.

Now did you hear, with respect to that meeting, that Mr. Louie Robinson had stated to Mr. Prior that Boswell's could use you from time to time?

Mr. Mouritsen: Objected to as already asked and answered.

The Witness: I heard it on the stand the other day.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark) Is that the first you heard of that?

A. That is the first time I heard Mr. Prior make that statement.

Q. You heard Mr. Prior testify to that effect on the stand in this proceeding, the other day, is that right? A. Yes.

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Let's try and not go over the same thing two or three times, Mr. Clark.

Mr. Clark: I am going to get it clearly into the record, Mr. Examiner, and I haven't pressed it with this witness.

Trial Examiner Lindsay: I believe the record shows an answer three times in three different ways on that. They all mean the same thing.

Let us not argue, Mr. Clark.

Mr. Clark: I would like to have the record read back, Mr. Examiner, to see whether I am just sitting here imagining [926] that I am not repeating these questions, or whether I misunderstood you, because I am quite sure that is the only time I have asked this man as to whether or not he had heard that his name had been mentioned at that conversation.

Trial Examiner Lindsay: To preceding questions, twice, he said he didn't hear the results of the meeting. Now, in that it covers also your last question.

Mr. Clark: My last question is——

Trial Examiner Lindsay (Interrupting): We won't argue. Let us proceed.

If I try to explain something, it isn't necessary to argue. I am only trying to get through with this, and it isn't for any other purpose other than I don't like questions asked four or five times.

Mr. Clark: I don't think the record will show that, so far as I am concerned.

May I ask for a recess at this time, your Honor?

Trial Examiner Lindsay: Yes. We will have a ten minute recess.

(Testimony of L. A. Spear.)

(At this point a short recess was taken, after which proceedings were resumed, as follows:) [927]

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Ready, your Honor.

Q. Now, Mr. Spear, I want to call your attention to the meeting in Mr. Robinson's office on the morning—withdraw that.

I want to direct your attention to the meeting on the morning of November 19th at which I think you said Mr. Prior and Mr. Gordon Hammond and Mr. Robinson and yourself and Mr. Martin were present. Have you that occasion in mind?

A. Yes.

Q. Now, will you please tell us, as nearly as you can recollect, what if anything Mr. Louie Robinson said during that meeting.

A. (Pause) I will have to lead up——

Q. (Interrupting) Let me withdraw that, please. Let me withdraw that, Mr. Spear, and I will ask you to give us the entire conversation at *that* meeting, in substance, as nearly as you can remember.

A. I was telling Gordon—he asked me how it was, the objection or throw-out or the fracas—he asked me to tell my story, how it happened, and I proceeded to do that. During this conversation Mr. Robinson entered.

Q. That is Mr. Louie Robinson?

(Testimony of L. A. Spear.)

A. Yes. Well, he didn't ask me to start all over. I thought maybe he would like to but he didn't suggest it and [928] Mr. Hammond didn't, and I continued with my story of the fracas, and I hadn't quite finished and Mr. Robinson says, "Well, Lonnie," he says, "That isn't the issue at all." He says, "The whole story is they didn't want your union and they so expressed themselves, a little bit forcibly I will admit, but," he said, "I didn't have anything to do with it."

Q. Now, who did you understand——

A. (Interrupting) Put his hands up here (Indicating) and he acted pretty snotty to me.

Q. He acted what?

A. Awful snotty to me.

Mr. Clark: I ask that that go out, Mr. Examiner.

Trial Examiner Lindsay: Yes. He may describe how he acted.

Q. (By Mr. Clark) Tell us what he said, but let us not have your conclusion.

That statement, the statement that the witness made goes out?

Trial Examiner Lindsay: Yes, I said it may go out.

Mr. Clark: Very well.

Q. Now, have you anything further to add to what Mr. Robinson said?

A. Oh, the conversation ensued mostly between him and Mr. Prior. I told my story and the conversation then was mostly [929] between him and

(Testimony of L. A. Spear.)

Mr. Prior. I told my story and the conversation then was mostly between those two.

Q. All right. Now, whom did you understand Mr. Louie Robinson to mean by saying that "they didn't want to accept your union?"

A. He didn't mention any names. "They" I took it to be him and the other employees.

Q. Well, did you understand that Mr. Robinson included himself in the word "they"?

A. Yes, I did. I understood that to be Louie.

Q. But he did use the word "they," is that right?

A. He did.

Q. All right.

Now, please tell us all you can remember on this occasion of the conversation which subsequently took place between Mr. Prior and Mr. Louie Robinson.

A. I don't recall any certain conversation.

Q. Do you recall any of it, Mr. Spear?

A. Right at the present time I do not recall any of it.

Q. Do you recall the substance of any of it?

A. The substance of it was, on the last, was Mr. Prior asked Mr. Robinson if we could go back to work.

He said, "No," and turned around to Gordon and says, "Go out and feel out the sentiment of the men on this subject, and we will let you know later." [930]

Q. All right.

(Testimony of L. A. Spear.)

A. Mr. Prior asked him when and he says, "Later."

"Well," he said, "Just when?"

He said, "Well, we will let you know. We will let you know." He wouldn't give no definite answer and Mr. Prior asked him for a definite answer, in other words he stated by noon, and Mr. Robinson stated that he would just let him know.

Q. Was anything said during that part of the conversation concerning the company furnishing protection to you men if you came back to work?

A. Yes, there was.

Q. Could you tell us what was said about that?

A. No, I just don't recall the words. If it was discussed, I could probably remember the statements in there.

Q. Didn't Mr. Louie Robinson say to Mr. Prior that you men were perfectly free to come back to work right away but that no extra protection would be given you?

A. He didn't say any statement like that that I know of. He might have said it. I didn't hear it.

Q. Well, is my statement in that regard refreshing your recollection concerning what was said concerning the company furnishing protection for any of your union members?

A. I never heard the word "protection" mentioned.

Q. Well, does my use of the word strike any chord of [931] recollection in your mind now which will enable you to give us anything further that was said?

(Testimony of L. A. Spear.)

A. Well, right at the present time I don't recall any particular word.

Q. Well, how about the substance of anything further?

A. Well, the substance of the matter was that we couldn't go back to work, he would have to see later. He would have to wait for something. I don't know what it was.

Q. Well, you have just told us it was until he felt out the sentiment of the other men.

A. That is what he said.

Q. I see.

A. That is what he said, sentiment of the men. He told Gordon to feel out the sentiment of the men.

Q. All right.

A. That is the words.

Q. Now at that time, Mr. Spear, and during that conversation, did Mr. Louie Robinson tell Mr. Prior, in your presence, that the members of your union would be carried on the payroll while he was feeling out the sentiment of the men?

A. In that conversation?

Q. Yes. A. He did not mention it.

Q. Nothing at all was said about that, is that right? A. Absolutely none. [932]

Q. Did you ever attend any further conversations at which Mr. Louie Robinson was present where that was discussed, namely, the carrying on the payroll of members of your Union?

(Testimony of L. A. Spear.)

A. No.

Q. You know, of course, don't you, that the members of your Union who left the Boswell plant on November 18th were carried on the payroll for some time afterward?

A. (Nodding head affirmatively.)

Mr. Mouritsen: Object to that as incompetent, irrelevant and immaterial, whether this witness knows it or not.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: He may answer.

The Witness: Yes, I know it.

Q. (By Mr. Clark) Did you have any discussion with either Mr. Hammond, Gordon Hammond, or Mr. Louie Robinson with respect to that?

A. No, sir.

Mr. Mouritsen: That is with reference to the carrying on the payroll? Is that right?

Mr. Clark: Yes.

Q. Your answer is No?

A. I never had no conversation.

Q. You were, in fact, carried on the payroll until the week ending December 8th, were you?

A. I believe it was the 6th. I believe the letter I got was [933] the 6th.

Q. Well, now, I will direct your attention, Mr. Spear, to——

Mr. Mouritsen (Interrupting): Mr. Examiner, I object to the examination of the witness about these records. We have not attempted to contest the

(Testimony of L. A. Spear.)

accuracy of these records in any way. It serves no purpose to examine the witness on it. It is something already before the hearing. We are merely wasting time going into such an examination.

Mr. Clark: I will submit it. I want the witness's statement whether he received the checks our records show.

The Witness: O. K., show me.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark) Now, I direct your attention to a page in Board's Exhibit No. 3 entitled your name, "Lonnie A. Spear," and particularly to the entries 11/17, \$32.00—meaning November 17th, \$32.00; then on November 24th, \$49.00, and December 1, \$25.00, and December 8th, \$15.50.

Now, have you looked at that, and does that refresh your recollection so that you can tell us, Mr. Spear, whether you received, about these dates, checks for these approximate sums? Of course there would be Social Security deductions.

A. As well as I remember about that, that is the date of December, the last day I worked?

A. No, that is not the last day you worked. I think your testimony shows you worked last on November 18th. [934]

A. I mean in December, here, is that the 8th day of December?

Q. It indicates the 8th day of December, 1938.

A. '35. There is a "'35" up there. What does that mean?

(Testimony of L. A. Spear.)

Q. The day you first started to work on September 10th, 1935.

A. And this has reference to the 8th of December?

Q. Of 1938.

Mr. Mouritsen: Now, may we have something for the record so we know what that means?

Trial Examiner Lindsay: I don't know—it seems to me those records are in there, and it seems like a lot of waste of time, but if you feel that you want it in twice, go ahead.

Mr. Clark: I do, Mr. Examiner. I want this witness's statement on it.

Now I will ask the question:

Q. Mr. Spear, after having looked at these entries I have just directed your attention to, can you tell us whether it isn't a fact that you were paid certain sums or carried on the payroll of this Company up to and including the week ending December 8th, 1938?

A. I received pay—don't know the date—the last check was very small check, and the one preceding—I think I received two checks after we were throwed out of the place.

Mr. Clark: Well, I move that the statement of the witness "after we were throwed out of the place" be stricken as not responsive, Mr. Examiner. [935]

Trial Examiner Lindsay: It may go out.

Q. (By Mr. Clark) As a matter of fact, you received three checks, didn't you, one for the week

(Testimony of L. A. Spear.)

ending November 24th, one for the week ending December 1st, and one for the week ending December 8th? Isn't that true?

A. I received three checks when I went after them; as well as I understand, one of them was for the week I had worked. I hadn't gotten the check. It doesn't matter.

Q. You had worked one day, namely, November 18th, on the week which ended November 24th, isn't that right?

A. I worked about five or ten minutes. We won't fight about that.

Q. You were paid for the full week, weren't you?

A. We were paid for around a full week.

Q. All right.

Now, didn't you discuss with anyone at all from the Company the fact that you were being paid for a time during which you were not actually working?

A. No. The Company never notified me.

Q. You took the money, of course?

A. Yes. I knew I was going to get it.

Q. Well, how did you know you were going to get it?

A. I heard from the investigator, that is, the Board's investigator, Mr. Larson.

Q. And when did you hear that from him, please? [936]

A. Well, it was sometime after that, after he came down. I presume it was on the day that he left, got through with his business.

Q. Well, can you place that for us, just approxi-

(Testimony of L. A. Spear.)

mately, with respect to November 18th? Was it—how long after November 18th was it?

A. Two or three days.

Q. Two or three days, and did Mr. Larson—

Trial Examiner Lindsay (Interrupting): Was that two or three days? I thought he said two or three weeks.

The Witness: No, days. He came down right away after this fracas.

Mr. Clark: Yes.

Q. And did Mr. Larson tell you that the Company was going to carry you on the payroll for a while?

A. Uh huh; he did.

Q. What did he tell you about that?

A. They didn't want us on the property, he would rather pay us and keep us off the property until we straightened the matter out. [937]

Q. Now, who was "he"?

A. That was Louie.

Q. You mean Louie Robinson? A. Yes.

Q. So that Mr. Larson told you the arrangement he had made with the company was that they were to continue to pay you until the matter was straightened out, is that right?

Mr. Mouritsen: I object to that on the ground it is assuming facts not in evidence——

Mr. Clark (Interrupting): I will withdraw that.

Mr. Mouritsen (Continuing): ——and that it is misleading.

Mr. Clark: May I have it read back? I may not want to withdraw it, Mr. Examiner.

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I will withdraw that question and ask you this, Mr. Spear:

Q. Did Mr. Larson tell you how it came about that such an arrangement was made?

Mr. Mouritsen: I object to that as assuming facts not in evidence, that an agreement was made.

Mr. Clark: I will submit it. This is cross examination. [938]

Trial Examiner Lindsay: If such an arrangement were made, you may answer.

The Witness: He stated the fact that—he just stated that Mr. Robinson didn't want us up there and he would rather pay us for the short interval of time on the job that we was working on rather than to have us come back there and he stated, as far as the negotiations, he didn't have anything to do with that, between us and Mr. Robinson.

Q. (By Mr. Clark): I understand that.

A. That was out of his line, he would help, do all he could, but at the present time he could not do any more, and just wait developments.

Q. What did you understand Mr. Larson to mean by his reference to the short time that remained on your jobs, I think you said?

A. The jobs that we were on.

Q. I see. A. At that time.

(Testimony of L. A. Spear.)

Q. In other words, you told us on your direct examination, didn't you, Mr. Spear, that as early as October 10th the work was running out and there were certain men being kept on for which the company really had no need, isn't that true?

A. I think you misquoted.

Q. Will you please state correctly, then, what you meant? [939]

A. At that time the work was picking up, but we didn't have enough work for the men employed at that time without we started the mill; then we would really be short-handed. In other words, they worked a few less men than they had previously worked in the mill.

Q. But didn't you say at the time you had this meeting, which I think you placed as somewhere about October 5th to October 10th that the company had been carrying some men for whom really it didn't have any use?

A. That was my opinion, that if I had been a foreman that we really didn't need those men.

Q. I see.

A. They was going to lay those men off. They got their orders that he was going to have to lay them off unless we started the mill. That is what the conference was for, to work out some method to keep these men from being laid off.

Q. And it was at that conference, wasn't it, that you saw the letter circulated among certain employees as to whether they wanted to work 8 or 12 hours?

A. Yes.

(Testimony of L. A. Spear.)

Q. And also the letter from Colonel Boswell stating that it would be more advantageous to him not to operate the mill but to keep the seed in storage, isn't that right? A. That is correct.

Q. Yes. Now, as a matter of fact, the season of 1938 to [940] 1939 was a very short season, wasn't it? A. It was.

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I submit it, if he understands, Mr. Examiner.

Mr. Mouritsen: What does a short season mean, Mr. Examiner?

Mr. Clark: He answered it was.

Q. What do you mean by that?

A. Decrease in acreage; it was a short season.

Q. (By Mr. Clark): What did you observe, Mr. Spear, in your work there during the fall of 1938 as to the difference between the preceding season and the '38 season?

A. There was no night crew.

Q. I see. Well, do you happen to know, or did you hear what the amount, the total amount of cotton was which was ginned in the season 1937 to '38—in the season 1938 to '39, as against the '37-'38 season?

Mr. Mouritsen: Now, I object to the question.

Mr. Clark: I asked him whether he heard.

Mr. Mouritsen: It is also confusing and involved.

(Testimony of L. A. Spear.)

Mr. Clark: Oh, I will withdraw it.

Q. So that, Mr. Spear, coming back again to the period after November 18th you understood then, I take it, that the work was running out, anyway? [941]

Mr. Mouritsen: Objected to.

Q. (By Mr. Clark): Is that so?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

The Witness: The work was——

Mr. Mouritsen (Interrupting): No, no.

Q. (By Mr. Clark): Was the work running out about November 18th?

A. Shall I answer?

Trial Examiner Lindsay: Yes.

The Witness: The work was running out.

Mr. Clark: Yes.

The Witness: At the gins.

Q. (By Mr. Clark): Yes. And did you understand that the paychecks that you received for two or three weeks, whatever it was, after November 18th, were paid to you on the basis of the jobs you had held on November 18th just as though you had continued working?

Mr. Mouritsen: I object to that on the ground it is vague and indefinite. It is too general. It doesn't state any specific instance. It isn't a fair question.

(Testimony of L. A. Spear.)

Mr. Clark: I will submit that.

Trial Examiner Lindsay: Sustained. I think we have [942] covered that.

Mr. Clark: I would like to know what this man's understanding is of the arrangements, because it is of the utmost importance to us in this case. I just want to get all of the facts in this. That is all.

Trial Examiner Lindsay: My ruling is that it was sustained on the ground that I feel we have covered that completely. The answer is in there and that he received the checks for the jobs that they had no November 18th.

Mr. Clark: Well now, this further question, Mr. Examiner——

The Witness (Interrupting): I would like to answer that question.

Trial Examiner Lindsay: Well, all right. Answer it. [943]

The Witness: We would have been employed the full week of six days at other work, whether the gins run or not, if this fracas had not come up.

Q. (By Mr. Clark): Well——

A. (Interrupting): It was the custom and always had been until the season was over completely, they kept all of the men.

Q. Well, is that what you base that statement on, namely, that it was the custom of Boswell's to keep all of the men? A. Yes, sir.

Q. Well, as a matter of fact, you had been laid off for two or three months that very Spring, hadn't you? A. Yes, I had.

(Testimony of L. A. Spear.)

Q. At least from February up to around the first of June? A. Yes.

Q. And then from some time early in 1933 on to September, 1934, or a period of 18 months, you had been first laid off and had then left, because of the conditions at this plant, isn't that true?

Mr. Mouritsen: I object to the question on the ground I can't hear it, Mr. Examiner.

Trial Examiner Lindsay: May I have that question read?

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I object to it on the ground it is vague and indefinite, unintelligible. [944]

Mr. Clark: I will submit it. The record will speak for itself.

Trial Examiner Lindsay: I think you should reframe that question.

Q. (By Mr. Clark): Well, you have been laid off for a period of 18 months from early in 1933 to September, 1934, hadn't you?

A. I was laid off in the previous Spring, but Mr. Hammond wrote me a letter and said I could come back, but I didn't come back, so I would have been there that Spring.

Q. And you didn't come back, Mr. Spear, because the conditions at the plant didn't look good, I think you said? Isn't that right?

A. No, I didn't mention that. I didn't get the letter, so I missed one gin season.

(Testimony of L. A. Spear.)

Q. And that is during this 18 months' period we are talking about?

A. Yes, I didn't get the letter, so I didn't come back.

Q. But you testified in your direct examination that during previous years, I think '31 and '32, you had been laid off for as much as three months at a time?

A. The whole plant was laid off, not myself but everybody. That was during the depth of the depression.

Q. That wasn't true during the 18 months' period we are talking about? [945] A. No.

Q. That wasn't true during the Spring of '38, was it?

A. No, there was work going on then. I was laid off in '38.

Q. Yes.

I want to direct your attention, Mr. Spear, to the conversation which you have stated as being sometime around the 5th to the 10th of October, 1938, or just before the mill opened, I think you said, in the Fall of '38, at which you and Mr. Martin and Mr. Farr and Mr. Gordon Hammond were present.

Do you remember that occasion?

A. Yes, I do.

Q. Your answer?

A. Yes, I do, somewhere around there.

Q. You made some statement regarding pressure which had been put upon some of the prospective members of your Union; is that right?

(Testimony of L. A. Spear.)

A. Mention those dates, will you please?

Q. Well, it is the conversation——

A. (Interrupting): The 17th?

Q. (Continuing): ——the conversation you placed as being shortly before the mill opened in October, 1938, and I think you gave the date of that as occurring sometime between October 5th and October 10th, approximately?

A. I remember the date. [946]

Q. And do you remember that conversation?

A. About the pressure?

Q. Well, do you remember this particular conversation I am trying to call your attention to?

A. I remember the meeting.

Q. All right.

That was what I want.

You said something to Mr. Gordon Hammond about pressure being put upon some of the prospective members of your Union, didn't you?

A. I did.

Q. Now, by whom was that pressure being exerted?

A. Right at this time, I don't recall whether we mentioned the parties or not. I don't think so. I don't think the names of the parties were mentioned who were exerting the pressure, or who had received the pressure. I merely mentioned to Gordon that this came to my attention that pressure had been exerted, and I didn't pay much attention

(Testimony of L. A. Spear.)

to it, and just merely mentioned it to Gordon, and we forgot about the matter.

Mr. Mouritsen: Mr. Examiner, may that question be read? I think the witness by his former answer has indicated that he didn't understand the question.

Trial Examiner Lindsay: Will you read the question and answer?

(The record referred to was read by the reporter, as [947] set forth above.)

Mr. Mouritsen: Now, may the witness be instructed to answer the question?

Mr. Clark: The question is answered. I submit it, Mr. Examiner.

Trial Examiner Lindsay: Read the question. When did you mean?

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: As I understand that question, it means calling for an answer now telling us, if you know, who was using the pressure if such had been used.

Is that your question?

Mr. Clark: That is the question.

Trial Examiner Lindsay: That answer may go out, then.

The Witness: You wish me to state who exerted the pressure?

(Testimony of L. A. Spear.)

Q. (By Mr. Clark): That is right; concerning which you were talking to Gordon Hammond. If you know.

A. I believe that Joe Briley was the party that had the pressure. In other words, he was told that he was liable to lose his job, or he would lose his job and——

Mr. Clark (Interrupting): Just a minute. Mr. Examiner, I ask that go out as not responsive. The question as now asked the witness is, who exerted the pressure.

Trial Examiner Lindsay: Yes, that may go out. [948]

Q. (By Mr. Clark): So far as you understand.

A. Tommy exerted the pressure.

Q. Tommy who?

A. Tommy Hammond and Bill Robinson. They were the parties that made the remarks.

Q. I see.

A. Those are the ones I remember. Those—they were the parties.

Q. That is, so far as your understanding was concerned?

A. So far as I knew about it. It was only hear-say. I didn't hear the threats myself, or the remark.

Q. I see.

And you didn't tell Mr. Gordon Hammond who was doing it? A. No, I didn't.

Q. Did Mr. Gordon Hammond tell you and Mr. Martin and Mr. Farr, at the time of this conversa-

(Testimony of L. A. Spear.)

tion, that so far as the Company was concerned, you men were absolutely free to join any Union you wanted to?

A. I am not sure whether he mentioned that fact or not. He might have.

Q. Did he ever mention that fact to you?

A. Yes, he has to me.

Q. And when was the first time that you remember?

A. Well, I don't recall the time. We had several little chats now and then. [949]

Q. Well, do you think it was before this October meeting? A. Yes.

Q. And do you think that it was as much as a month before this October meeting?

A. It could have been.

Q. And could it have been two months before?

A. It could have been.

Q. I see.

Now, when was the last time that Mr. Gordon Hammond ever made such a statement to you?

Mr. Mouritsen: That refers to a statement that the witness is free to join the Union at any time?

Mr. Clark: That is true.

Trial Examiner Lindsay: Do you understand the question?

The Witness: No.

Q. (By Mr. Clark): Mr. Spear, you have told us that Mr. Gordon Hammond on several occasions told you that so far as the Company was concerned,

(Testimony of L. A. Spear.)

you were perfectly free to join any Union you chose, and then I asked you when those statements were made—any such statement was made to you by Gordon Hammond; and you told me “several times.”

Then you said that it might have happened as much as one month or two months before the October meeting.

The Witness: He didn't make the statement several times. We talked several times about it. [950]

Mr. Clark: All right.

Trial Examiner Lindsay: And that was your testimony, is that right?

The Witness: Yes.

Q. (By Mr. Clark): How many times would you say that Mr. Gordon Hammond made the statement substantially as I have made it to you, that you were free to join a Union if you wanted to, so far as Boswell Company was concerned?

A. I don't remember of him any specified time, but he did tell me that he could not say whether a man could not or could. He couldn't tell a man whether or not he could or could not join a Union.

Q. And when was the first time he told you that? If you remember?

A. I believe that was in about when they first had that meeting, when Mr. Prior first came up here.

Q. You mean about July?

A. A few days after.

Q. You mean about July, 1938; is that right?

(Testimony of L. A. Spear.)

A. That is right.

Q. Now, you joined the Union on September 2nd, 1938? A. I don't remember.

Q. Well, is it about September of 1938 that you joined?

A. I couldn't state. It was sometime in September. It might have been later, it might have been before, I don't think it was [951] in August, I am pretty sure.

Q. After you joined the Union, you told Mr. Hammond that you had joined, didn't you?

A. I probably did, or let it be known some way or another. I don't know. I don't think so, but I can't tell.

I believe it was not known, since I recall the matter, because Joe accused me of being the president of the Union, and I had never joined the Union at that time.

Q. When was that, if you know?

A. That was in September when Joe was talking to me.

Q. All right.

Trial Examiner Lindsay: Joe Hammond?

The Witness: Joe Hammond.

Q. (By Mr. Clark): But at this meeting of October 5th or 10th, that is, the meeting we have placed as being approximately around the 1st of October at which the pressure was discussed, didn't you and Mr. Farr and Mr. Martin meet with Mr. Gordon Hammond as a committee from the Union?

(Testimony of L. A. Spear.)

A. Yes, we did.

Q. And didn't you tell him at that time that you all were members of this Union?

A. We told him—I told him that we were a committee sent up to talk the matter over with him, and we represented the Union boys.

Q. Yes. [952]

A. The prospective members, or something to that effect.

Q. I see.

A. I don't even know at that time whether we had got the charter or not. I don't believe we had.

Q. All right.

A. But we considered ourselves Union members because we had signed the application, and we were meeting.

Q. Yes.

How long had you been meeting before that, if you can remember that approximately?

A. Oh, I don't know.

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I will submit it. It is very important.

Trial Examiner Lindsay: He may answer.

The Witness: I don't remember.

Q. (By Mr. Clark): As much as a month?

A. We had met. That is about all I can say.

Q. Had you been elected the head of the organization at that time, by early October?

A. No.

(Testimony of L. A. Spear.)

Q. Prior to this early October meeting, had you or Mr. Farr or Mr. Martin, to your knowledge, solicited other employees in the Boswell plant to join the Union?

A. Yes, sometime previous to that or afterwards, around that time—from that time on we did solicit members. [953]

Q. I see.

Were you present, Mr. Spear, at a meeting on October 8th of 1938, at which Mr. Prior and Mr. Gordon Hammond were present?

A. Well, I don't remember ever meeting with Mr. Prior and Mr. Hammond except one time, and that was later, after the fracas.

Q. I see. All right.

A. And we did it for the purpose of an appointment with Mr. Robinson.

We came up to meet Mr. Robinson and he was out.

Q. That was at a later time?

A. That was at a later time. We didn't discuss it.

Q. You have no recollection of having met in early October with Mr. Prior and Gordon Hammond?

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): Did you attend the meeting on the morning of November 17th, 1938?

(Testimony of L. A. Spear.)

A. I did.

Q. At which were present Mr. Prior and Mr. Gordon Hammond and yourself and Mr. Farr and Mr. Martin, I believe?

A. Yes.

Q. Have you that particular event in mind?

A. Yes, I know it.

Q. All right. [954]

Now, what, if anything, was said on that occasion, Mr. Spear, concerning the arrangement which you described as the 8-hour plan in your direct examination?

A. We discussed the matter and Mr. Hammond said he thought he could work out some plan to save Number 4 from being laid off, and we left the matter in that stage. And that is about all there was to it.

We suggested that they reduce the hours in the gin so that Number 4 would not be laid off. He said he would think it over and check it over and see what could be done about it.

Q. At that time, who was operating Number 4 gin, Mr. Spear?

A. Mr. Martin.

Q. All right.

And will you tell us how this so-called 8-hour plan came into being, that is, who thought of it?

Mr. Mouritsen: Objected to unless the witness knows or recalls.

Mr. Clark: That is all I am after.

Trial Examiner Lindsay: Well—off the record.

(Discussion outside the record.)

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: On the record.

Mr. Clark: I will withdraw the question and re-frame it.

Q. Will you tell us what you mean, Mr. Spear, by your reference on your direct examination to the 8-hour plan?

Mr. Mouritsen: Objected to as incompetent, irrelevant and [955] immaterial, vague and indefinite.

Mr. Clark: Submit it.

Trial Examiner Lindsay: If he understands, he may answer.

The Witness: To save Number 4 gin from being laid off, Mr. Farr suggested that it could be done by putting the men on eight hours in the gin.

Q. (By Mr. Clark): I see.

A. And Mr. Hammond said that he would think it over and consider it, and we left the matter right there.

Q. All right.

That suggestion was made by Mr. Farr at a Union meeting on the night before, that is, on the night of November 16th, isn't that right?

A. It probably was. I believe it was. We were a committee, anyway.

Q. And then this committee of yours and Mr. Martin and Mr. Farr, together with Mr. Prior, went to call on Mr. Gordon Hammond at the plant on the following morning, that is, November 17th, isn't that so?

A. That is so.

Q. All right.

(Testimony of L. A. Spear.)

And then a suggestion was made by someone of you to the effect—or rather, requesting that the hours be reduced to eight hours, and the work split up among the four gins so that [956] Number 4 gin could continue operations a few days longer? Is that right?

Mr. Mouritsen: I object to that as compound and misleading.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): What was the objection made, then?

This is cross-examination, Mr. Examiner, I would like to point out again. I am being terrifically handicapped in the cross-examination of this witness, I submit.

Trial Examiner Lindsay: You are not being handicapped. In the first instance, Mr. Clark, that has been entirely gone over, and it isn't necessary that you constantly stop me on every ruling that I make, and it isn't necessary that you make such statements, because you have been given extraordinary leeway on cross-examination.

Now, if you will break your question down and see what you have here.

Mr. Clark: May I have the question read back, then?

Trial Examiner Lindsay: Please don't start in until I get through talking, Mr. Clark. It is hard on the reporters and it is hard on everyone.

(Testimony of L. A. Spear.)

Mr. Clark: Well——

Trial Examiner Lindsay (Interrupting): Just a moment. Will you please read back the question? [957]

Mr. Clark: I would like to state, Mr. Examiner, for the purpose of this record, and so it will be clearly apparent what is happening——

Trial Examiner Lindsay (Interrupting): Just a moment, Mr. Clark. Proceed. I said you may ask the question and I am having it re-read.

Now, I am not going to have you constantly interrupting me in this hearing. You are an attorney of record and you understand the procedure, and I am not denying you a thing. All of these statements are unnecessary.

Now, read the question, please.

Mr. Clark: Now, I would like permission to make a statement for the record.

Trial Examiner Lindsay: Your statement is not necessary at this time.

If you have an objection—and you would be out of order on that, because I am asking that the question be re-read as you requested—now, let us not get into these unnecessary arguments.

Read back the question, please.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Well, he may answer the question if he understands it.

The Witness: Mr. Farr suggested to Mr. Ham-

(Testimony of L. A. Spear.)

mond the [958] 8-hour proposition to save the gin from being laid off. He said he would think it over and see what could be done about it.

Q. (By Mr. Clark): Is that all Mr. Gordon Hammond said about that subject?

A. That is all he said as well as I remember. That is all he said.

Q. Was there any suggestion made at that time regarding the time the gin would be started the following day?

A. No, no. Nothing was said about it—in fact, we didn't know whether he would act on the suggestion or not.

Q. What time did you go to work on the morning of November 17th?

A. Oh, I guess it was 7:00 o'clock.

Q. What time did you go to work on the morning of November 18th?

A. 10:00 o'clock, a few minutes after that.

Q. How did you find out you were going to work a few hours later on the morning of the 18th than you had on the 17th.

A. Tommy came over about 5:30 or something like that and told me the time to go to work.

Q. I see. And did you understand that that was part of this plan which had been suggested that morning to Mr. Gordon Hammond? [959]

A. I thought that he had acted upon it and considered it and decided that it was a very good plan.

Q. That is the first morning that season that you had gone to work that late, isn't that true?

(Testimony of L. A. Spear.)

A. Outside of a lack of cotton or rainy weather or something like that. I think we were told to come back as late as 10:00 o'clock.

Q. I understand that, but assuming a normal situation where you had plenty of cotton and the weather was all right, the gins had uniformly opened up at 7:00 o'clock, isn't that true?

A. 6:00 o'clock, but if there was a shortage of cotton we would sometimes come at 7:00, sometimes 8:00, and sometimes 10:00; but I don't know how they get it outside of just from the amount of cotton that usually comes in, I presume, but anyway they would usually tell us before quitting time or just at quitting time what time to come back at that time.

Q. Are you finished now? A. Yes, I am.

Q. Now, during this conversation on the morning of November 17th was anything said by Mr. Prior to Mr. Gordon Hammond concerning any further pressure on prospective members of your union?

A. Mr. Prior never mentioned anything about it as well as [960] I remember. I did.

Q. Did you say anything further about it on the morning of November 17th? A. Yes, I did.

Q. What did you say, please?

A. I called his attention to the fact that pressure was being exerted, and he said if it was it wasn't authorized, and he would check into it and stop it.

(Testimony of L. A. Spear.)

He also stated—I told him that I could bring in the parties who had told me if he wanted to, and he said that he didn't think it would be necessary, that they would probably deny it, and we wouldn't get any further with it and so we dropped the matter.

Q. Is that all that was said on that subject matter at that time?

A. Well, there was some discussion there about who was a union member and I believe that I made a statement that I would or could in the future give him a list if it was necessary for him to have them of the union members; and Mr. Prior said that that was the wrong thing to do and wouldn't think that it would be the right thing to do so we dropped it. [961]

Q. I see.

After November 18th, Mr. Spear, did your union initiate a boycott against Boswell Company.

A. After the 18th?

Q. After November 18th? A. Yes, we did.

Q. And approximately how long after November 18th was that action taken?

A. I believe it was the next day.

Q. The 19th? A. Yes.

Q. Is that right? A. Yes.

Q. And was that taken or was the mechanical means of starting that in effect a telegram over your signature? A. It probably was.

Q. Do you remember any such telegram?

(Testimony of L. A. Spear.)

A. There was a telegram sent.

Q. And to whom was that sent?

A. Well, I don't recall. It was very exciting times at that time.

Q. I understand that.

A. I believe it was—I don't recall the party it was sent to.

Q. That telegram bore your signature, that is, bore your [962] name as the sender, didn't it?

A. It probably did. I was the president of the organization.

Q. But you didn't in fact read the telegram before it went out, did you?

A. I didn't read the telegram. I knew what the contents were, about what the contents were.

Q. In other words, you didn't actually send it, did you?

A. I didn't. I authorized the sending of the telegram.

Q. Do you know who did send it?

A. No, I don't. Mr. Prior or Mr. Martin sent the telegram.

Q. And isn't it a fact——

A. (Interrupting): I presume.

Q. All right.

Isn't it a fact that you didn't learn about it until later?

Mr. Mouritsen: That is objected to as already asked and answered. The witness said he authorized——

(Testimony of L. A. Spear.)

Mr. Clark (Interrupting): I will submit that has not been asked and answered.

Trial Examiner Lindsay: He may answer.

The Witness: I knew the telegram had been sent right away.

Q. (By Mr. Clark): And how long after, please? [963]

A. Well, I heard about the result a short time—I don't recall the time.

Q. I see. The same day, you think? Namely, November 19th?

A. I don't think I heard the result that day.

Q. I see. A. Don't think so.

Q. Now, was there any strike action taken by your union against Boswell?

Mr. Mouritsen: I object to that——

The Witness (Interrupting): No, we were——

Mr. Mouritsen: Withdraw the objection.

The Witness (Continuing): We were locked out. In other words, we considered that a lock-out. We didn't go on strike.

Q. (By Mr. Clark): How soon did you in your union meeting, or in conversation with each other, arrive at the determination that you were being locked out?

A. As soon as we had the meeting in the afternoon.

Q. And that is on the afternoon of November 18th?

A. (Pause)

Q. Or November 19th, which?

(Testimony of L. A. Spear.)

A. I believe it was the 19th; yes, it was.

Q. On the afternoon of November 19th?

A. Yes.

Q. Is that right? [964]

A. That is right.

Q. And who suggested the term "lock-out" to you?

A. I believe Mr. Prior stated the rules and regulations concerning procedure, what had been done and conditions before this and like conditions—I wouldn't say like conditions, under conditions that was unfavorable to the parties, I might state it that way.

Q. I see.

What members of the union attended that meeting on the afternoon of November 19th, do you remember? A. Most all of them.

Q. Can you name them for us?

A. Well, there was——

Mr. Mouritsen (Interrupting): Objected to as incompetent, irrelevant, and immaterial; and not tending to prove or disprove any of the issues in this matter.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Had you personally, Mr. Spear, authorized the filing of any charges against the Boswell Company prior to November 18, 1938?

Mr. Mouritsen: Objected to as incompetent, ir-

(Testimony of L. A. Spear.)

relevant and immaterial; not tending to prove or disprove any of the issues in the case. [965]

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): Now, I want to direct your attention, Mr. Spear, to a conversation occurring approximately on the 17th day of January, 1939, in the administration building or the office building, rather, on the Boswell property—that is the plant—at which I believe you were present and Mr. Prior was present, Mr. Louie Robinson, and Mr. Maurice Howard of the National Labor Relations Board.

Do you remember that meeting?

A. I remember the meeting.

Q. Now, can you—withdraw that.

Am I correct in stating that occurred about or on January 17, of this year?

A. Some time around about that. I don't remember the date.

Q. The middle of January anyway, is that right?

A. Well, it is quite a while after the first of the year.

Q. And can you give us, as nearly—will you give us, rather, as nearly as you can now, the persons who were present?

A. I can give you quite a number of them.

Q. Please try to do that.

A. I was there; Mr. Prior, Walt Winslow, Mr.

(Testimony of L. A. Spear.)

Andrade, Bill Robinson, Kelly Hammond, "Cowboy" was there, Johnston.

Q. Is that Johnston? [966] A. Yes.

Q. Who is named "Cowboy"?

A. Yes. Oh, there was others—I can't recall. I didn't pay very much attention to the crowd. I was paying mostly attention to the conversation that ensued.

Q. Now, on that occasion—withdraw that.

What was the purpose of that meeting, as you understood it?

A. To a fact that—well, a compromise so we could go back to work.

Q. And who did the talking, please, from the standpoint of you men?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: Submit it.

Mr. Mouritsen: It is vague and indefinite, Mr. Examiner, what is meant by the viewpoint of—

Mr. Clark (Interrupting): All right.

Q. Was there a spokesman so far as the members of your union were concerned at that meeting?

A. None for the union that I recall.

Q. Was Mr. Prior there?

A. I don't recall whether he was there or not.

Q. Well, didn't Mr. Howard do some talking for you?

A. He was—as I understood it, he was an investigator. [967] He was an investigator like Mr.

(Testimony of L. A. Spear.)

Larson was. He is not on our side. As I understand his duties, he went around and got information regarding the troubles and things that would occur.

Q. Yes. Well, did he do the talking so far as—was he the spokesman for you men from the union?

Mr. Mouritsen: Objected to as vague and indefinite.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Now, on that occasion, Mr. Spear, did you state in substance or in effect to the persons present that no one had told you to go home on the morning of November 18th, but that some of you union men stated to each other that you thought you better go home until things were straightened out?

A. (Pause). State that again. I don't believe I just quite get it.

Mr. Clark: May I have it read back, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

The Witness: I don't just quite get it. It is a little bit too long of a question.

Mr. Clark: Let me split it up for you if I can.

Q. At this meeting on January 17th which we have just located and at which Mr. Maurice Howard was present, did you [968] state, in substance, or effect, to the persons present, that on the morning

(Testimony of L. A. Spear.)

of November 18th no one had instructed you to go home from the Boswell plant?

A. I don't think I made any statement like that.

Q. Do you remember some statement to that general effect?

Mr. Mouritsen: Objected to as already asked and answered.

Q. (By Mr. Clark): Do you remember that subject matter being discussed?

A. I told the story of how the fracas happened.

Q. Well, let me direct your attention to the particular thing that I asked you in the question put to you a few moments ago, namely, do you remember making any statement at the meeting at which Howard was present concerning the conditions under which you left the plant on the morning of November 18th?

A. I told the story there just how we was throwed out, ejected, and the parties came up there told us we better leave until we get it straightened out.

Q. Now, is that—

A. (Interrupting): No union man said to me or suggested to me, that I can recall, that we leave.

Q. Well then, is it your testimony, Mr. Spear, just so that we will be clear about it, that you did not state, in substance or effect, at the January 17th meeting, that no one [969] had told you to leave the plant?

A. I don't remember making any statement like that. We were told to leave.

(Testimony of L. A. Spear.)

Q. And that is the statement you made to the persons assembled at the meeting of January 17th, is that right?

A. As well as I can remember, that is exactly the way I told it and as I have always told it, as it occurred.

Trial Examiner Lindsay: It is 12:00 o'clock.

Mr. Clark: Very well.

Trial Examiner Lindsay: We will adjourn until 2:00.

(Thereupon, at 12:00 o'clock noon, the hearing was adjourned until 2:00 o'clock p. m., of the same date.) [970]

After Recess

(Whereupon, at 2:00 o'clock p. m., the hearing was resumed.)

Trial Examiner Lindsay: Hearing called to order.

Mr. Mouritsen: Ready for the Board.

Mr. Clark: Ready for the respondent, Mr. Examiner.

L. A. SPEAR

the witness on the stand at the time of recess, having been previously duly sworn, resumed the stand and further testified as follows:

Cross Examination

(Continued)

Q. (By Mr. Clark) Now, Mr. Spear, just before the noon recess we were talking about a con-

(Testimony of L. A. Spear.)

versation in January of 1939 which I think you placed at about January 17th.

Have you that occasion in mind?

A. I don't remember the date, that it referred to.

Q. Well, you do remember the conversation, or rather the meeting, don't you?

A. I remember we were talking about some conversation in January.

Q. Yes. Now, I would like to ask you whether or not on that occasion you stated, in substance or effect, to the persons present that no one at the Boswell plant had threatened you or any of the other members of your union on the morning of November 18, 1938?

A. As I remember, I didn't make any such statement at that [971] meeting. You refer to Mr. Howard's?

Q. I am referring to what we will call the Howard meeting. Did you make any statement to that effect at that meeting?

A. Not that I can recall.

Q. Did you hear any such statement as that made at that meeting by anyone connected with the union?

A. Not that I can recall.

Q. I understand then that you have no recollection on that subject matter at all, is that true?

A. Not that; not that.

Q. All right.

Now, just so we may be clear about it, Mr. Spear, am I not correct in stating that the meeting of Janu-

(Testimony of L. A. Spear.)

ary 17, 1939, which we will call the Howard meeting, was held for the purpose of reviewing what had happened at the plant on November 18th?

A. Well, perhaps that was what it was. I don't know. I thought it was for the purpose of patching up the differences. I never had anybody tell me what it was for. I was called down there hurriedly and I directly went right in there and I never asked anyone before or after.

Q. But were the facts or were the events of the morning of November 18th discussed at this meeting?

A. They were.

Q. All right. Then will you please tell us whether or not [972] at that time and place you stated, in substance or effect, to the persons present, that no intimidation or violence of any kind as against the union men had occurred on that morning, that is, November 18th?

A. Mr. Bill Boswell asked me if I was man-handled and treated rough and abused. That is the only reference that I can recall.

Q. All right. Now, will you tell us what if anything you said on that occasion in that respect?

A. I don't recall any specific words.

Q. Well, will you give us the gist of it or the substance of it?

A. Well, as I remember, Mr. Bill Boswell asked me if I was treated rough, swore at me, or something to that effect. I told him, as well as I remember, that I wasn't treated so very rough, that I was man-

(Testimony of L. A. Spear.)

handled, but I didn't consider it so awfully bad; I was still there that day.

Q. Didn't you tell the people present at that so-called Howard meeting on January 17, 1939, in response to Mr. Boswell's question, that in fact no one had hurt you or cursed you or hit you in any manner?

Mr. Mouritsen: May I have that?

Mr. Clark: I will split it up, then.

Mr. Mouritsen: No, I think you said Mr. Boswell.

Mr. Clark: I did, in response to Mr. Bill Boswell's [973] question.

Q. It is Bill Boswell you are talking about, aren't you? A. Yes.

Mr. Clark: Yes.

Mr. Mouritsen: I am sorry.

Q. (By Mr. Clark) Mr. Bill Boswell was present at this meeting, wasn't he? A. He was.

Mr. Clark: Now, may I have the question read back, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I told Mr. Boswell that they didn't hit me. They didn't curse me, but I was manhandled—I guess that would be the word, proper word—I was treated a little rough in my journey from the place over to the office. [974]

Q. (By Mr. Clark) Well, Mr. Spear, isn't it a fact that you went over to the office on the morning of November 18th in the manner you have described already for us, entirely of your own volition?

(Testimony of L. A. Spear.)

A. No, I struggled. I struggled half way to that gate, and I was completely exhausted when I got over to the office.

Q. Were you trying to get to the office? Is that what I understand?

A. I wasn't trying to get anywhere. I was propelled along in a vice-like grip; and I struggled to get loose and I couldn't.

Q. All right.

Do I understand that you didn't want to go to the office at all, then?

A. I didn't want to go anywhere.

Q. You wanted to stay right where you were next to the gin, is that right?

A. Yes, that is a fact.

Q. Now, at this meeting on January 17th, 1939, will you please state whether Mr. Howard said in your presence and hearing, in substance or effect, that you would have been within your rights if you had shot these three men who were taking you over to the superintendent's office?

A. Oh, I don't remember anything he said. I was talking to Mr. Boswell at the time, and I was looking at him. [975]

Q. Do you remember anything that Mr. Howard said in that connection in which statement he referred to your right to shoot anybody?

A. I don't recall anything like that.

Q. Have you any recollection at all on that?

A. Yes, he was there, and he was talking to the

(Testimony of L. A. Spear.)

boys. He was talking to Kelly Hammond and Bill. I believe he questioned him.

Q. Do you remember on that occasion—or, rather, did Mr. Howard say to the persons at that meeting in your presence and in your hearing, Mr. Spear, that if this had happened to him, Howard, and if he had a gun, he would have shot these three men?

A. I never paid much attention to him.

Q. Well, will you say that he didn't make that statement at the meeting of January 17th?

A. I didn't pay much attention to him. He was talking to Kelly and Bill, and I think some of the other boys made statements to him; and I didn't pay very much attention to what they told him. I had gone over the whole thing before, and it didn't interest me very much.

Q. Well, what, if anything, do you remember Mr. Howard saying in that regard?

Mr. Mouritsen: Objected to as already asked and answered several times. [976]

Mr. Clark: I withdraw that.

The Witness: I don't remember any particular words. I couldn't recall without I would have some words leading up to it, see?

Q. (By Mr. Clark) Do you remember the substance of anything that Mr. Howard said at the meeting of January 17th, 1939, which we have been discussing?

A. Well, he asked us boys how it happened, as well as I remember, and we told him, all of us.

(Testimony of L. A. Spear.)

Q. And Mr. Louie Robinson was there, and Mr. Bill Boswell was there, isn't that right?

A. Mr. Boswell was there. I don't know whether Louie was there or not. I couldn't tell you.

Q. Can you give us anything else that Mr. Howard said?

A. No, I don't remember very much about what he said. It didn't interest me, because I had gone over it, and I thought that they was going to get together on a compromise of some kind.

Q. Do you remember any mention by Mr. Howard of a gun? A. Well——

Mr. Mouritsen (Interrupting): Objected to as already asked and answered.

Mr. Clark: I will submit it, your Honor.

Trial Examiner Lindsay: He may answer it again if he remembers. [977]

The Witness: I don't think I recall anything about a gun. He was—he was a little bit upset, since you remind me of it, and he moved the chair from the table I was on and backed up, and I don't know what he was going to do; and he went and sat down. And since you recall it, he done that, and he said some words, but I don't know what he said.

Q. (By Mr. Clark) Who did he say them to?

A. I don't know who he said them to, and I don't know what the words were.

Q. Howard got a little excited, didn't he?

A. Yes, he did. He got a little excited.

Q. He raised his voice, did he?

(Testimony of L. A. Spear.)

Mr. Mouritsen: This is objected to, Mr. Examiner, as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: All right.

Q. To your knowledge, how long was Mr. Howard in and around Corcoran at this time, that is, around January 17th?

Mr. Mouritsen: This is objected to as incompetent, irrelevant and immaterial, and at least it is in the nature of an attempt to effect a compromise of a situation that has later resulted in a lawsuit, or a hearing of this kind. As such I think it is purely beyond the scope of inquiry into which we should go at this time.

Mr. Clark: I don't understand the compromise rule as to [978] the admissibility of evidence would have any application to a proceeding such as this, which is not of a character of a civil lawsuit at all, Mr. Examiner, as I understand it. It is a violation of a Federal Statute.

Trial Examiner Lindsay: Sustained. You may proceed.

Q. (By Mr. Clark) Were you present at any conversations after January 17th with employees of the Boswell Company at which Mr. Howard was present, and at which he attempted to get them to join your Union?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial. [979]

(Testimony of L. A. Spear.)

Mr. Clark: Submitted.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Now, Mr. Spear, I want you to go back just a moment to the morning of November 18, 1938.

Will you please tell us whether Mr. Gordon Hammond was present in the office to which you all went that morning after these three men had laid off you?

A. I didn't see him. He wasn't in his office.

Q. I see.

As I understand, you all went over to Gordon Hammond's office? A. Yes.

Q. Did Mr. Gordon Hammond ever appear in the office to your knowledge? A. No.

Mr. Mouritsen: May we have the time?

Mr. Clark: The morning of November 18th.

The Witness: No.

Q. (By Mr. Clark) Did he ever appear there as long as you were there that morning?

A. No.

Q. All right. And up until the time that you heard Mr. Louie Robinson's voice, did Mr. Louie Robinson come into the office? [980]

A. No.

Q. All right. What did all of you do in the office up until the time you heard Mr. Robinson's voice out in the corridor?

A. We just sat there and waited.

Q. Why was that, please?

A. We had the guards at the door.

(Testimony of L. A. Spear.)

Q. What do you mean, "the guards"?

A. The birds that brought us over.

Q. Do you mean to tell us, Mr. Spear, that you were forcibly kept in the room by other employees of the company?

A. I considered at that time that I was forcibly kept in there a prisoner. That is the way—I didn't try to get out. I didn't want to try.

Q. All right.

And there were other employees, then, that were blocking up the doors, is that right? A. Yes.

Q. And it was upon Mr. Robinson's telling them and also all of the union men to go back to work that you were released, is that right?

A. That is it.

Q. All right.

On your direct examination you told us that when you returned to your gin you stalled for time because you were waiting for someone. Do you remember that testimony? [981] A. I did.

Q. Will you please state who you were waiting for?

A. I was waiting for Mr. Robinson to show up.

Q. And by Mr. Robinson, you mean Mr. Louie Robinson, don't you?

A. Mr. Louie Robinson.

Mr. Clark: No further questions.

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Spear, upon your cross examination I believe you stated that you were

(Testimony of L. A. Spear.)

manhandled on the morning of November 18, 1938.

Do you recall that? A. I do.

Q. Now, because of that manhandling you received did you ever see a physician?

A. I went to see a doctor later.

Q. And when did you do that?

A. That was on Saturday.

Q. Well now, with reference to the day upon which you were manhandled, when did you go to see the doctor? You understand that?

A. Well, after the 18th, the following Saturday.

Q. Well now, was—do you recall whether or not November 18, 1938, was a—well, do you recall what day of the week it was? A. Friday. [982]

Q. And was this the next day that you went to see a physician? A. Yes.

Q. Did he examine you at that time?

A. Yes.

Q. Did he make any statement to you about your physical condition? A. He—

Q. (Interrupting) Just answer that yes or no.

A. Yes, he did.

Q. Now, will you state what he said?

Mr. Clark: Will you please identify him, first?

Q. (By Mr. Mouritsen) Who was the doctor?

A. I don't remember his name; the first office on the left downtown.

Q. Well, where? In Corcoran?

A. On the main street, yes.

Q. And is there any street name, any street that

(Testimony of L. A. Spear.)

you can tell us—can you tell us what street in Corcoran his office is on?

A. The main street. I believe it is Whitley.

Q. And is it near any cross street?

A. Well, it is adjoining the Richfield service station, which adjoins the cross street. It is the second door from Norboe Avenue. [983]

And did you talk to him in his office there?

A. Yes, I did.

Q. Was anyone else present other than you and the physician or the doctor?

A. My wife was with me.

Q. Was she present when he made the statement to you about your physical condition?

A. Yes.

Q. Will you state what he said to you at that time regarding your physical condition?

Mr. Clark: Objected to as hearsay; not binding on any of the respondents in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: I don't know as he made any statement directly to me. I think he stated to my wife that I was suffering from shock.

Q. (By Mr. Mouritsen): Is that—

Mr. Clark (Interrupting): I move that that go out, may it please your Honor. It is not in the hearing of this witness.

The Witness: I was there.

Q. (By Mr. Mouritsen) Did you hear him say that to your wife?

(Testimony of L. A. Spear.)

A. I believe I did and I told him that I thought maybe it was my heart. I went down there because I was feeling awfully [984] weak and I thought maybe my heart was on the bum. That is the reason I went down there. I was afraid of my heart. It never give me no trouble before, because I had him examine me for a mountain trip, mountain climbing trip in the summer, and my heart was all right. I reminded him of that and told him though that was what I wanted to be examined for, to see if my heart was all right. I thought it might be something pertaining to my heart because I was awfully weak.

Mr. Mouritsen: Nothing further.

Mr. Clark: Very well.

Recross Examination

Q. (By Mr. Clark): When was it you made your appointment with the doctor for this examination?

A. My wife and I went down there. We didn't make any appointment.

Q. I see.

A. Went directly in there. I think it was the afternoon.

Q. When did you decide to go and see a doctor?

A. I decided—my wife kept trying to get me to see a doctor all that morning, after I come back from the conference.

Q. After you what?

A. After I came back from the conference down there, my wife wanted me to go see the doctor.

(Testimony of L. A. Spear.)

Q. That is the morning of the 19th, is that right?

A. Yes. That was on Saturday morning; Saturday. [985]

Q. Had you been feeling badly prior to the 18th?

A. No, feeling all right.

Q. Had you not discussed going to see a doctor with your wife prior to the 18th? A. No.

Q. Felt perfectly all right before that?

A. I did.

Q. You have used the word "manhandled," Mr. Spear, and counsel used that in his questions on re-direct examination put to you just now. Tell us what you mean by that?

A. Well, I don't know that I can hardly tell you except I was treated a little rough.

Q. Well, you have told us that no one struck you, isn't that right?

A. That is a fact. They did not strike me.

Q. And am I not correct in stating that two men simply took you by the arm and started to lead you over to the superintendent's office?

A. I guess "lead" would be the word. I would call it "propelled." Wouldn't make much difference, I guess, either way.

Q. And you told us that you resisted that?

A. I did. I tried to keep from being taken along.

Q. Was that the extent of what happened to you, physically?

A. Except that a man pushed behind; that is all.

(Testimony of L. A. Spear.)

I couldn't [986] keep from going. I went right along.

Q. I understand that.

A. I struggled as long as I could and my strength gave out. Then I quit struggling.

Q. Did the doctor tell you it was physical exertion that caused the weak condition or shock or a mental condition? A. He didn't say.

Mr. Mouritsen: I object to that as already asked and answered.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Well, we have gone over it. He may answer.

The Witness: As well as I remember, all he said, he thought maybe I was suffering a little shock.

Q. (By Mr. Clark) For how long after the 18th did you continue to feel weak?

A. Well, I laid around home for about four days; felt awfully tough for about a week, and then I got all right.

Q. Haven't noticed any recurrence of that?

A. No.

Q. How old a man are you, Mr. Spear?

A. I am about 50 years old.

Q. About 50?

A. Close; 49.

Q. I see.

A. 50. [987]

Q. Now, I would like to ask you—withdraw that. If I may, Mr. Examiner, I would like to ask one

(Testimony of L. A. Spear.)

or two more questions which are not properly re-cross examination, but it will take me only a few seconds.

Trial Examiner Lindsay: You may ask the questions.

Q. (By Mr. Clark) Mr. Spear, again directing your attention to the time you were in the superintendent's office on the morning of November 18th, before you heard Mr. Robinson's voice out in the corridor, I want to ask you whether Bill Robinson was in that room with you?

A. If he was in there, I don't know it. He could have been.

Q. Was Tommy Hammond in there with you?

A. I don't think Tommy was in there.

Q. Was Joe——

A. (Interrupting) He could have been in there.

Q. I see.

Was Joe Hammond in there with you?

A. I didn't see him. I don't recall seeing him. I don't think so. I don't think any of them was in there.

Q. Were any of these three men in the crowd which took you over to the superintendent's office?

A. I don't know. I don't recall seeing either one of these men there in that crowd.

Q. I see.

Now, directing your attention to the time when you had [988] returned to your gin, immediately after being in the superintendent's office, that is,

(Testimony of L. A. Spear.)

after Mr. Robinson told you all to go back to work, and while you were there waiting for Mr. Louie Robinson to come along, did Bill Robinson appear?

A. Yes, he did. He appeared in the gin.

Q. And you talked to him, didn't you?

A. No; didn't say a word to Bill.

Q. Well, didn't you hear him say something?

A. Yes, I did.

Q. I see.

Now, did Tommy Hammond appear at that time?

A. I didn't see Tommy right at that time.

Q. And did you see Joe Hammond at that time?

A. Yes, I did.

Q. Now, that was still while you were waiting for Mr. Louie Robinson, isn't that right?

A. Yes.

Mr. Clark: That is all.

Mr. Mouritsen: No further questions.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Mouritsen: Call Mr. Wingo.

H. N. WINGO,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testi- [989] fied as follows:

Direct Examination

Q. (By Mr. Mouritsen): State your name?

A. H. N. Wingo.

Q. And where do you live?

A. 1137 Narboe Avenue, Corcoran, California.

Trial Examiner Lindsay: Can you talk a little louder, please?

Q. (By Mr. Mouritsen): Have you ever been employed by the J. G. Boswell Company?

A. I have.

Q. When were you first employed by the Boswell Company? A. November of '37.

Q. What type of work did you first do for that Company?

A. Feeding suction at the gin.

Q. What was your rate of pay per hour?

A. 35 cents.

Q. What hours did you work?

A. 12, I believe.

Mr. Clark: Mr. Examiner, I can hardly hear this witness with these fans going, in view of his talking in such a low manner.

Trial Examiner Lindsay: Talk louder, will you please? Talk as if you were out in the plant.

Q. (By Mr. Mouritsen) And how long did you continue to [990] work—I believe you said as a suction feeder, is that correct?

(Testimony of H. N. Wingo.)

A. Two weeks.

Q. And did your work then change?

A. It did.

Q. And what did you next do?

A. I was a press helper.

Q. Any change in rate of pay or hours of work?

A. No.

Mr. Clark: What was the rate that you brought out? I didn't hear that.

Trial Examiner Lindsay: Thirty-five cents an hour.

Mr. Clark: Thirty-five?

Trial Examiner Lindsay: That is right.

Is that right, Mr. Witness?

The Witness: That is right.

Q. (By Mr. Mouritsen) And how long did you continue to—I will strike that.

Will you tell me again what type of work you next started to do, Mr. Wingo?

A. I was started tying out cotton.

Q. And how long did you continue to do that type of work?

A. Some six or eight weeks, I think; six weeks, probably.

Q. And what type of work did you next do for the Company?

A. I helped turn some hot seed in the warehouse that was piled up. [991]

Q. And how long did you continue to do that type of work?

(Testimony of H. N. Wingo.)

A. One or two nights.

Q. And what type of work did you next do for the Company?

A. I helped haul some of these hot seeds around to the oil mill.

Q. How long did you continue to do that type of work?

A. Three or four nights.

Q. Then what did you do?

A. They put me to work in the seed house.

Q. How long did you work in the seed house?

A. Well, for some time, I would say around the middle of January until the mill shut down in March, I believe.

Q. And the year? A. 1938.

Q. Did you, during that period, receive any increase in pay?

A. Yes. When I started tying out cotton, they raised me to 40 cents an hour.

Q. And after that time did you receive 40 cents an hour until March of 1938? A. I did.

Q. Now, after March of 1938, when did you next work for the Company?

A. Well, I was only off a few days.

Q. Then what type of work did you start to do?

A. I helped set some pumps or worked around where they were setting pumps. [992]

Q. And was that work for the J. G. Boswell Company? A. I think so.

Q. But it wasn't at the plant, is that correct?

A. It was out on the levee.

(Testimony of H. N. Wingo.)

Q. And how long did you continue to do that type of work?

A. Oh, it wasn't but one day, possibly two days; I don't recall.

Q. And did your type of work change then?

A. Yes.

Q. What type of work did you next do?

A. I worked around the plant here in Corcoran, hoeing weeds, cleaning up around.

Mr. Clark: Will you please identify that time? May I have it identified?

Trial Examiner Lindsay: Yes. It has been done, but you may have it again.

The Witness: This was in April of 1938.

Mr. Mouritsen: All right.

Q. Now, what work did you next do after you did this cleaning up work around the plant?

A. I was laid off down there, and I got a job as pumper out on 749 District.

Q. And was that also for the Boswell Company?

A. Well, I didn't get my check through the Boswell office.

Q. When next did you go back to work for the Boswell—[993]

Mr. Clark (Interrupting): Just a minute. I am going to ask that that go out as not responsive, and that we have that answer to the question, yes or no. Was that for the Boswell Company?

Trial Examiner Lindsay: He may explain his answer.

(Testimony of H. N. Wingo.)

The Witness: Well, I understood on this first time when I was running a gasoline engine I was paid by the Tulare Lake Land Company, I believe it is.

Q. (By Mr. Mouritsen) Well, is that when you say that you—was that the first occasion when you did not receive your check from the J. G. Boswell Company? A. Right.

Q. What is the approximate date, or what is the approximate period when you received your check, from the Tulare Land Company?

Q. You mean how long?

Q. Yes.

Mr. Clark: And when.

The Witness: From some time in April until the 9th of June, I believe, 1938. [994]

Q. (By Mr. Mouritsen) After the 9th of June, 1938, did you ever go to work for the Boswell Company? A. I did.

Q. And on what—on or about what date?

A. The first night of July, 1938.

Q. And what type of work did you start to do then?

A. I worked in the seed house at the oil mill.

Q. And what was your rate of pay at that time?

A. 40 cents.

Q. How long did you continue to work in the seed house?

A. I believe until some time in the latter part of September of 1938.

(Testimony of H. N. Wingo.)

Q. Now, while you worked in the seed house, did anyone—was there anyone there who directed your work or gave you orders regarding your work?

A. Yes.

Q. Who was that person?

A. Well, part of the time it was Julius Hammond. The rest of the time it was Joe Hammond.

Q. Now, when Joe Hammond gave you orders or directed your work, did you carry those orders out?

A. As near as I could.

Q. I believe you stated that you worked in the seed house until the latter part of September, 1938, is that correct?

A. Yes, sir. [995]

Q. What type of work, if any, did you next do for the company?

A. I went back to work in the gin as a pressman.

Q. And about when did you start as a pressman in the gin?

A. Some time in the 1st of October. I couldn't fix the date.

Q. And when you went to work in the gin, did you have anyone there who gave you orders or directions regarding your work?

A. Yes.

Q. Will you state who gave you orders or directions regarding your work in the gin?

A. Tommy Hammond gave me most of them, and Bill Robinson gave me some of them.

Q. Now, between the time in September when you worked, as I believe you stated, in the seed

(Testimony of H. N. Wingo.)

house and some time in the fore part of October when you went to work in the gin, were you laid off? A. Yes.

Q. Now, how were you informed of your lay-off?

A. Joe Hammond laid me off.

Q. Now, after the fore part of October, 1938, how long did you continue to work for the J. G. Boswell Company?

A. Until the 18th of November, I believe.

Q. What year? [996] A. 1938.

Q. During the period while you were employed by the J. G. Boswell Company did you become a member of any labor organization? A. I did.

Q. Of what labor organization?

A. American Federation of Labor.

Q. Do you recall the approximate date when you made application to the American Federation of Labor?

A. I believe it was the second day of September, 1938.

Q. During the month of August, 1938, did you ever have a conversation with Joe Hammond regarding a union?

A. A short conversation.

Q. Can you fix the date more approximately than the month of August. Was it in the fore part or the last part of August 1938?

A. I couldn't say; I didn't pay any attention to the dates.

(Testimony of H. N. Wingo.)

Q. Do you recall where the conversation took place?

A. Between the seed house and the oil mill.

Q. Other than yourself and Joe Hammond, was anyone else present? A. No.

Q. At the time when you had the conversation with Joe Hammond was he giving you orders and directing your work? A. He was. [997]

Q. Will you state what Joe Hammond said to you on that occasion and what you said to Joe Hammond?

Mr. Clark: Objected to as hearsay and not binding on any of these respondents and not the type of evidence upon which a finding can be based in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: Well, it was one day when Gilmore came down. He was on the premises. I noticed him, but I didn't talk to him; and Joe passed by and tapped me on the shoulder and asked me if Gilmore had me signed up yet in the union.

Q. (By Mr. Mouritsen) Did you say anything to Hammond then?

A. I told him he hadn't.

Q. Was there any further conversation that took place at that time?

A. There was none.

Q. Shortly after that time on the same date did you have a further conversation with Joe?

A. Some time in August.

(Testimony of H. N. Wingo.)

Q. Yes. Was it on the same day or on another day? A. I don't think it was the same day?

Q. Where did you have this other conversation with Joe Hammond?

A. It was over near the new seed house.

Q. Was anyone else present other than yourself and Mr. [998] Hammond? A. No.

Q. Will you state what Mr. Hammond said to you on that occasion and what you said to Mr. Joe Hammond?

Mr. Clark: Objected to on the same grounds, your Honor, namely, hearsay, and not binding on any of the respondents.

Trial Examiner Lindsay: He may answer.

The Witness: He came by and asked him how the union was getting along, and he said he didn't know, that it looked like if the men there wanted a union, they would quit and go somewhere where there was a union instead of trying to bring one there.

Q. (By Mr. Mouritsen) Do you remember any further conversation that took place there at that time? A. No.

Q. Did you ever attend any meeting of the union at which the subject of wearing union pins at the plant was discussed? A. Yes.

Q. And can you fix the approximate date of that meeting?

A. I believe it was around the 16th of November of 1938.

(Testimony of H. N. Wingo.)

Q. Do you recall where the meeting was held?

A. At O. L. Farr's residence.

Q. Were any other employees of J. G. Boswell Company present at that meeting? [999]

A. Yes.

Q. Can you name as many as you can recall who were present at that time?

A. Well, R. K. Martin, O. L. Farr—I believe that is about all I could name definitely.

Q. Now, will you state what was said at that meeting regarding the wearing of the union buttons at the time?

Mr. Clark: Objected to on the ground it is hearsay and in no way binding on any of the respondents, self-serving, and also incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: May I have that question again?

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: It is purely self-serving, your Honor, as well as hearsay.

Trial Examiner Lindsay: Will you kindly read the third question above that, I believe it is?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: He may answer, and you may have an exception.

The Witness: What was the question?

(Testimony of H. N. Wingo.)

(The question referred to was read by the reporter, as set forth above.)

The Witness: Well, as best I recall, we agreed to wear [1000] buttons.

Mr. Mouritsen: No.

Q. Can you state what was said as near as you can recall about wearing buttons at the plant?

A. No, I can't.

Q. Well, can you give us the substance of what was said about wearing union buttons at the plant?

A. I believe not.

Q. Can you state whether or not it was decided at the union meeting to wear union buttons at the plant? A. Yes.

Q. Will you state whether or not it was decided at that meeting to wear your union buttons at the plant?

Mr. Clark: I object on the ground it has been asked and answered.

Trial Examiner Lindsay: Yes. Sustained.

Q. (By Mr. Mouritsen) And after that meeting on or about November 16, 1938, did the union members wear their union buttons at the plant?

A. Yes.

Q. When did they first wear their union buttons at the plant?

A. On Friday, November 18th, I believe.

Q. And the year? A. 1938. [1001]

Q. Did you go to work on the morning of November 18, 1938? A. Yes, sir.

(Testimony of H. N. Wingo.)

Q. At about what time?

A. About 6:00 o'clock.

Q. During the course of November 18, 1938, did you attend a meeting of people in the yard of the Boswell plant?

A. I did.

Q. At what time, approximately, did you attend such a meeting?

A. About 10:00 o'clock in the morning.

Q. Now, will you describe the work that you were doing just prior to the time you attended the union meeting—strike that—attended the meeting in the yard of the Boswell Company plant?

A. I was tying out a bale of cotton.

Q. And after you completed that work, what did you do?

A. I went down to where the crowd was gathered just outside the building.

Q. Will you state whether or not that was on the premises of the Boswell plant that the crowd gathered?

A. Yes.

Q. Now, I will ask you if prior to that date you had ever worked for—done any work for Rube Lloyd?

A. Well, I had worked in his gang.

Q. When was that? [1002]

A. Either the last of March or the 1st of April in 1938.

Q. And what type of work were you doing when you worked in his gang?

Mr. Clark: I object to that as incompetent, ir-

(Testimony of H. N. Wingo.)

relevant and immaterial; unless Mr. Lloyd is identified in some way.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Mouritsen) On the morning of—to return to the morning of November 18, 1938, did you see Mr. Lloyd in that crowd of people in the yard?

A. Yes.

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial, may it please your Honor, on the same ground.

Trial Examiner Lindsay: He may answer.

The Witness: Yes. [1003]

Q. (By Mr. Mouritsen) Who was Mr. Rube Lloyd?

A. Well, he is an employee of the J. G. Boswell Company.

Q. Now, I believe you stated that prior to November 18th, 1938, you had worked in his gang, is that correct? A. Yes.

Q. What does his gang do at the plant?

A. Well, they repair, set pumps, build buildings.

Q. And when you worked in his gang, did you or did you not take orders or directions regarding your work from Mr. Rube Lloyd? A. I did.

Q. Did you observe his giving orders and directions regarding the work to other men?

A. Yes.

Q. Did you observe whether those other men carried out the orders and directions regarding the work that you heard Mr. Rube Lloyd give to them?

A. They did.

(Testimony of H. N. Wingo.)

Q. Now, during that—or, while that crowd was gathered on the morning of November 18th, 1938, did you hear Mr. Rube Lloyd say anything?

A. Yes.

Q. Will you state what you heard Mr. Rube Lloyd say?

Mr. Clark: Objected to as hearsay, and not binding on any of the Respondents in this proceeding, no authority having [1004] been shown from the Respondent, Boswell Company, to have Mr. Lloyd speak for it in connection with any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: He says, "Throw them out. Let's throw them out."

Q. (By Mr. Mouritsen) Do you know a Mr. Brown who worked at the plant? A. I do.

Q. What does he do at the plant?

A. He was the day engineer, I thought, then.

Q. Did you hear Mr. Brown say anything during the course—or while that gathering was assembled in the yard on November 18th, 1938?

A. I did.

Q. Will you state what you heard Mr. Brown say?

Mr. Clark: Objected to on the ground it is hearsay and not binding on any of the Respondents to this proceeding, there having been no authority shown from the Respondent Boswell Company to Mr. Brown to speak for it in connection with any

(Testimony of H. N. Wingo.)

of the matters under investigation in this proceeding.

Trial Examiner Lindsay: Sustained until there is more information as to who Mr. Brown is.

Q. (By Mr. Mouritsen) I believe you stated, Mr. Wingo, that Mr. Brown is the day engineer of the plant; is that correct? [1005] A. Yes.

Q. Was he the day engineer while you were employed at the plant? A. Yes.

Q. Now, I will ask you what you heard Mr. Brown say on that occasion?

Mr. Clark: The same objection, Mr. Examiner.

Trial Examiner Lindsay: What does the day engineer do?

The Witness: He wipes engines, and attends to the engines in general, I think—the power plant, it is, of the J. G. Boswell Company.

Mr. Clark: I can't hear the witness's statement.

Trial Examiner Lindsay: Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: Mr. Examiner, may I be heard upon that ruling?

Trial Examiner Lindsay: Well, I haven't ruled on the last objection yet. If you think it is necessary, you may.

Mr. Mouritsen: Well, Mr. Examiner, it is the position of the Board in this regard that a sufficient foundation has been laid in as much as these statements were made and the acts were done upon Company time and property, and, therefore, that such

(Testimony of H. N. Wingo.)

statements are permissible and are admissible even though it is not shown that this particular man Brown was— [1006] acted in any supervisory capacity.

Mr. Clark: Submit it, your Honor.

Trial Examiner Lindsay: He may answer.

The Witness: He says, "Let's throw them out. The Company is behind us."

Q. (By Mr. Mouritsen) Now, were you present during the entire course of that gathering until it disbursed? A. Yes.

Q. What did you observe when the crowd disbursed? A. I didn't get that.

Q. Do you understand that?

What did you observe when the crowd broke up?

A. Well, I undertood they was going to take Lonnie over to the office.

Q. Well, did you observe them, a number of the employees, start out with Mr. Spear in the general direction of the office? A. Yes.

Q. What did you, yourself, do at that time?

A. I got my lunch kit and started home. I went out and sat down on the running board of my car to see what they were going to do.

Q. And after that time, did you return to the gin house? A. Yes.

Q. What did you do after you returned to the gin house?

A. I started my two motors and got ready for work. [1007]

Q. Then what next occurred after you started your two motors and got ready for work?

(Testimony of H. N. Wingo.)

A. Kelly Hammond came along and shut them off.

Q. Who is Kelly Hammond?

A. He is an employee at the Boswell plant.

Q. What next occurred after Mr. Kelly Hammond shut off the motors? A. I went home.

Q. Now, after you returned to the gin house and before you went home, did Mr. Louis T. Robinson come out to the gin house?

A. I didn't see him.

Q. At the time when Mr. Kelly Hammond shut off your—the motors in the gin house, did he make any statement to you? A. Not to me.

Q. Well, did he make any statement that you heard?

A. I wouldn't be positive that he did.

Q. While you were working for the Boswell Company, did you ever receive any complaints regarding your work? A. No.

Q. Where were you last working—what job before November 18th, 1938?

A. Before November 18th?

Q. Before November 18th, 1938?

A. I was pressman on the Number 2 gin. [1008]

Q. Do you know whether or not that gin was operated after November 18, 1938?

A. No, I don't know.

Q. Do you know who, if anyone, replaced you on that gin after November 18, 1938?

A. No, I don't know.

Q. Have you had any work since November 18, 1938? A. I worked a little.

(Testimony of H. N. Wingo.)

Q. Do you know approximately how much money you have earned since November 18, 1938?

A. About \$25.

Q. If the National Labor Relations Board should order your reinstatement with back pay, would you be willing to accept employment with the J. G. Boswell Company? A. I would.

Mr. Mouritsen: You may examine.

Cross Examination

Q. (By Mr. Clark): What was your rate of pay that you were getting on November 18, 1938, Mr. Wingo, when you left? A. 40 cents an hour.

Mr. Clark: Does your Honor intend to take an afternoon recess?

Trial Examiner Lindsay: Yes. You may have it now. A ten-minute recess.

(At this point a short recess was taken, after which [1009] proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Q. (By Mr. Clark) Now, Mr. Wingo, I will show you the page headed with your name in Board's Exhibit No. 3 which is your social security record with the Boswell Company and I want particularly to direct your attention to the figures or rather the entry 3/24, meaning March 24, 1938, opposite which appears the figures \$16.00 and then to the further entry 7/7/1938, meaning July 7, 1938, opposite which appears the figures \$32.60, and ask you if, looking at those two days upon which money was apparently

(Testimony of H. N. Wingo.)

paid you refreshes your recollection as to the length of time in 1938 that you were not employed by the Boswell Company is concerned? A. Yes.

Q. Well, all right.

Am I correct in stating then that you were laid off by the Boswell Company on or about approximately March 24, 1938, as of which date you received a payment of \$16 for that week?

A. I was laid off about that time.

Q. About that time. Exactly. I don't expect you to remember the exact dates, don't you see, but that does correspond with your recollection, does it?

A. Yes.

Q. All right. Then am I correct likewise in stating that [1010] you were next employed by the Boswell Company about July 1, 1938, at the end of which week you received your regular payment, under date of July 7th?

A. Didn't I make the statement that I worked a little after the mill closed down?

Q. Well, I am not—I don't remember what statement you made in that regard on direct examination, but if you did, if you have any further explanation to make, we will get to it. I wish you would just answer my questions as best you can, after you get them in mind, and then make any explanation you want to make.

A. Maybe I didn't understand that question.

Q. Very well. Let me withdraw it and reframe it.

Am I correct then in stating, Mr. Wingo, that you

(Testimony of H. N. Wingo.)

resumed your employment with the Boswell Company after your lay-off in the spring of 1938, about July 1 of that year?

A. No. I worked some immediately after the mill shut down, some two or three days after it shut down. I went back to work and worked a few days.

Q. Well, aren't you thinking of the time you were first laid off which the record here shows was on March 24th, that you went back and worked a few days?

A. Yes, I went back and worked a few days after the mill shut down.

Q. All right. The mill shut down in the latter part of [1011] March 1938, didn't it?

A. I think so.

Q. Isn't the few days that you worked after the mill shut down included in this \$16 payment which you received on March 24th? Don't you think that?

A. I don't know.

Q. Well, you have told us you were getting paid 40 cents an hour, weren't you, at that time?

A. Yes.

Q. All right.

Now, leaving that matter for a moment, that is the few days that you may have worked after the mill shut down, the thing I want from you is the best recollection on when you again were employed by the Boswell Company later in the year, you see?

A. Well, I don't think I was off over two or three days until I was employed for a short time, and then laid off again.

(Testimony of H. N. Wingo.)

Q. All right. Now how long—in what capacity were you employed on this resumption of employment, we will call it, after you were first laid off.

A. I helped set pumps and hoed weeds around the warehouse.

Q. For how long did you do that?

A. Just a few days; not long.

Q. That you think was either the latter part of March or [1012] the early part of April of 1938?

A. Yes.

Q. And then were you laid off for quite a considerable period?

A. Until the first night of July.

Q. All right. Now when you went back to work for Boswell commencing July 1st did you receive 40 cents an hour?

A. Yes, sir.

Q. As your rate of pay?

A. I did.

Q. And am I correct in stating, Mr. Wingo, that continuously through the entire fall of 1938 up to November 18th you were paid 40 cents an hour?

A. For all the work I did, yes.

Q. Yes.

Did I say 40 cents a day? Did I say 40 cents a day in some question?

Trial Examiner Lindsay: We understood it was 40 cents an hour.

Mr. Clark: I wish it would be changed if I said that.

May I have that last question?

Trial Examiner Lindsay: Read the last question.

(Testimony of H. N. Wingo.)

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: All right. [1013]

Q. And as I understand it, you worked at various jobs and different jobs from time to time?

A. Yes.

Q. When was the first time as near as you can remember it now when you talked to Mr. Gordon Hammond or Mr. Robinson, Louie Robinson, concerning your having joined the union?

A. I never did talk to one of them about it.

Q. You never did talk to either of those gentlemen, is that right? A. No.

Q. You referred to certain conversations with Mr. Joe Hammond during August of 1938 on your direct examination. Do you remember those?

A. Yes.

Q. Did you ever tell Mr. Joe Hammond that you had joined the union? A. No.

Q. Were you laid off for a short period of time in October of 1938?

A. I believe I was.

Q. In other words, am I not correct in stating that the mill closed down along in latter September or early October? And then started in again around the 25th of October?

A. I don't know when it started again, but I know when it shut down, about the 28th of September. [1014]

(Testimony of H. N. Wingo.)

Q. And then was there a matter of a few weeks before it started up again?

A. I wouldn't be positive when it started again. I was transferred to the gin, the next job I had.

Q. I see.

Were you laid off when the mill was shut down on the 28th of September? A. Yes.

Q. And then was there a period of a few days, at least, during which you were laid off?

A. Yes.

Q. Before you were put in the gins?

A. Yes.

Q. Did Mr. Prior—withdraw that.

Had you joined the Union by that time?

Mr. Mouritsen: Objected to as indefinite.

Mr. Clark: Withdraw that.

Q. When did you join the Union, if you remember?

A. About the 2nd day of September, 1938.

Q. Yes.

Now, did Mr. Prior ever tell you of any conversation which he had with Mr. Gordon Hammond about October 8th, 1938? A. No.

Q. Just a minute, please.

In which he asked Mr. Hammond to re-employ you? [1015] A. No.

Q. Do—did you ever know anything at all, Mr. Wingo—withdraw that.

Were you ever told by—withdraw that.

With whom did you talk about being re-hired?

(Testimony of H. N. Wingo.)

A. Mr. Gordon Hammond.

Q. In October of 1938?

A. Mr. Gordon Hammond.

Q. And where was that conversation, if you please?

A. It was on the J. G. Boswell property. I couldn't place the spot exactly.

Q. And when was it, as nearly as you can fix it?

A. In the early part of October, I will say.

Q. Of 1938? A. Right.

Q. Anyone else present? A. No.

Q. Now, did you get in touch with Mr. Hammond, or did he get in touch with you?

A. I got in touch with him.

Q. You went to see him at his office or at the plant? A. At the plant.

Q. Did you then ask him for a job?

A. Yes.

Q. And the result of that was that you did get a job? [1016] A. Yes.

Q. As pressman in Number 2 gin; is that right?

A. That is right.

Q. Now, at that time was there any discussion between you and Mr. Gordon Hammond about the Union? A. No.

Q. Did he ask you whether you had joined the Union? A. No.

Q. Did he tell you anything about a conversation which he had had a few days previously, that is, on October 8th, with Mr. Prior, about re-employing you? A. No.

(Testimony of H. N. Wingo.)

Q. And do I understand that you never, at any time, until you probably heard it here in this court room, had known about such a conversation taking place?

A. I happened to be working at the plant when Mr. Prior came down, I think.

Q. You mean on the 8th of October?

A. I think I was already at work.

Q. You think you were? A. Yes.

Q. Well, did you—do you remember the occasion of his coming down to the plant and talking to Mr. Gordon Hammond at that time?

A. I heard some talk of it. [1017]

Q. Well, that is exactly what I was after.

Where did you hear about Mr. Prior having come to the plant to discuss with Mr. Gordon Hammond the matter of re-employing some of the Union members?

A. I believe George Andrade told me about it after he came back to work.

Q. Was that after the conversation had taken place?

A. I suppose so. It was after he had come back to work.

Q. I see.

Did you learn at that time that you were among the men discussed by Mr. Gordon Hammond with Mr. Prior? A. No.

Q. What did Andrade tell you about it?

A. Well, as best I remember, he said that Mr.

(Testimony of H. N. Wingo.)

Prior talked to Mr. Hammond and he agreed to put him back to work.

Q. To put him, Andrade, back? A. Yes.

Q. You never knew that that conversation concerned you at all, then? A. No.

Q. I see.

Now, from September 2nd on up to November 18th of 1938, there were Union meetings from time to time, weren't there, Mr. Wingo?

A. I think so. [1018]

Q. I mean, didn't you attend them?

A. I attended one that I know of.

Q. And when was that with respect to November 18th? A. About November the 16th.

Q. Well, is that the only meeting that you attended?

A. Well, it is the only one that I remember. I was sick for a little while there and didn't go out.

Q. Well, you have told us that you joined the Union on September 2nd. By that, you mean that you simply signed your application on that day?

A. Yes.

Q. And do I then understand that the first meeting you attended was the one on November 16th?

A. I don't remember whether it was or not.

Q. Well, do you remember a meeting at which you received a button or were initiated into the Union?

A. I was initiated. I didn't receive any button, I don't believe, that night.

(Testimony of H. N. Wingo.)

Q. Well, do you remember the night when you were initiated? About when that was?

A. I do not remember the date.

Q. Well, can you fix it for us with respect to September 2nd? A. No, I couldn't. [1019]

Q. Was it a week after or was it September 2nd?

A. No, it wasn't September 2nd.

Q. What is your best recollection as to how long after September 2nd it was?

A. I couldn't state. I don't remember.

Q. Do you think it was this meeting of November 16th?

A. Well, I wouldn't be positive.

Q. I see.

When did you receive your button?

A. I don't remember. Mr. Martin gave me one.

Q. Was that at a meeting?

A. I don't think so.

Q. Well now, at whatever meeting you did attend, Mr. Wingo, did you see other employees of the Boswell Company present? A. Yes.

Q. Do you remember about how many?

A. No.

Q. Did you talk to other employees of the Boswell Company from time to time after September 2nd and before November 18th concerning the fact that you had joined the union?

A. You mean outside of the union? Other than union men?

Q. Well, first let us take union men.

(Testimony of H. N. Wingo.)

A. I have talked to some. [1020]

Q. Yes. Now, how about talks with persons who were not members of the union?

A. I didn't consult anyone that wasn't a member of the union.

Q. I see. Now, after the events of November 18th which have been described during this hearing, I understand that you got your lunch pail and started home, is that right? A. That is right.

Q. Did you ever go back to the Boswell plant?

A. Yes.

Q. When, please? A. The following day.

Q. That was the 19th? A. Yes.

Q. And what was your purpose in returning to the plant? A. To get my check.

Q. And did you get it? A. Yes.

Q. And now that was the check for the week ending November 17th, wasn't it?

A. I think so.

Q. In other words, that didn't include your pay for whatever time you had put in on the 18th, isn't that right? A. No, it didn't.

Q. And then did you return to the Boswell plant at even a [1021] later date to pick up another check?

A. I did.

Q. And when was that?

A. One week later.

Q. And did you receive a check at that time?

A. I did.

Q. And was that for a full week's pay?

(Testimony of H. N. Wingo.)

Mr. Mouritsen: Objected to——

The Witness (Interrupting) No.

Q. (By Mr. Clark) How much was it for, if you remember, approximately?

A. I can show you.

Q. I wish you would tell us then.

A. The week ending November 24th?

Q. Yes, sir. A. \$23.20.

Q. All right. Now, have you got the check for the week ending the 17th, that is, the stub of it with you up there? A. No.

Q. Now, did you receive any checks in addition to the ones for the week ending the 24th? In other words, did you receive a check for the week ending December 1st? A. I did.

Q. And what is the amount of that?

A. \$8.40. [1022]

Q. And did you receive a check for the week ending December 8th? A. No.

Q. Well, aren't you mistaken about that, Mr. Wingo. Will you please look at those stubs you have and answer my question with respect to a check for the week ending December 1st? Have you got that stub? A. December 1st?

Q. Yes.

A. Yes, sir; I got one then.

Q. All right. And how much was that one for?

A. \$20.

Q. Yes, \$20. A. Yes.

Q. And then you got another one for the week ending December 8th, didn't you? A. Yes.

(Testimony of H. N. Wingo.)

Q. And that was the one for \$8.40, is that not right?

A. Yes. That is right. I was mistaken.

Q. So that after the 18th of November, if I understand you correctly, you returned to the plant on four different occasions and received checks, the first of which occasions was on the following day, the 19th?

A. Yes.

Q. At which time you received a check for the week ending [1023] the 17th?

A. Yes.

Q. The next was the following week when you received a check for the week ending November 24th?

A. That is right.

Q. The next was the following week when you received a check for the week ending December 1st?

A. That is right.

Q. And then the following week when you received a check for the week ending December 8th?

A. That is right.

Q. Is that right?

A. Yes.

Q. Now, you of course didn't do any work for the money you received for the weeks ending December 1st and December 8th, did you?

A. No.

Q. And the only work you did for the check you received for the week ending December 24th was such time as you had put in on the 18th?

A. That is right.

Q. Now, did you have any conversation with any—withdraw that.

Did you have any conversation with Mr. Hammond

(Testimony of H. N. Wingo.)

or Mr. Louie Robinson concerning the fact that you were receiving [1024] these checks from the company?

A. One check I went after—I don't recall which one it was—but I believe that Yankee Robinson was in the pay office.

Q. Who is Mr. Yankee Robinson?

A. He is an employee of the Boswell Company, works in the office.

Q. Well, was your conversation with Yankee Robinson or Mr. Gordon Hammond or Louie Robinson?

A. Well, I asked Yankee Robinson for my check and he looked through it and said he didn't believe I had one. He says, "Go ask Gordon. He is in his office."

Q. Then did you ask Mr. Gordon Hammond?

A. I did.

Q. And about how long was that after November 18th?

A. Well, I told you I didn't know which check it was.

Q. It was one of these checks for which you did no work, isn't that right?

A. Might have been the one where I worked four hours.

Q. One of these four checks, anyhow?

A. One of the four checks.

Q. And what then did Mr. Gordon Hammond say to you when you said—when you asked if he had a check?

(Testimony of H. N. Wingo.)

A. He said he thought so, he would go take a look.

Q. Did he take a look? [1025]

A. He went in and brought my check out.

Q. Was that all the conversation you had with him at that time? A. That is all.

Q. Did you have any conversation at any time with either Mr. Gordon Hammond or Mr. Louie Robinson regarding the reason for your receiving these checks? A. No.

Q. Well, what did you understand the reason to be?

Mr. Mouritsen: Objected to.

The Witness: Well, I understood that they was going to pay us for a short time, until this was settled.

Mr. Clark: May I have that read back? I didn't quite get it.

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark): In other words, you understood that you were being carried on the payroll until this matter was straightened out, isn't that right. A. Yes.

Q. Did you ever hear about a meeting between Mr. Prior and Mr. Louie Robinson which took place on November 28, 1938, in the office building of the Boswell Company? A. No. [1026]

(Testimony of H. N. Wingo.)

Q. And at which the matter of reinstating you men who had joined the union was discussed?

A. No.

Q. Did you ever hear that? A. No. [1027]

Q. Did Mr. Prior ever make any report to you of any such meeting? A. No.

Q. Did he ever tell you that he had stated to Mr. Louie Robinson that unless Martin was re-employed, none of the Union men would come back to work?

A. You mean who told me that?

Q. Prior? A. No.

Q. Did you ever hear anything at all about that?

A. I can't say that I recall anything about it.

Q. Was that subject matter ever discussed in any of your Union meetings after November 28th?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial, already asked and answered.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): Do I understand, then, Mr. Wingo, that you never heard anything at all about any such statement either in or out of the Union meeting?

A. Well, I saw Mr. Martin come down and talk to Mr. Hammond one day.

Q. I am talking about Prior, the conversation between Prior and Robinson?

A. I don't quite understand you. [1028]

Q. Well——

(Testimony of H. N. Wingo.)

Trial Examiner Lindsay (Interrupting): Read the question, please?

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: I will withdraw that, Mr. Examiner.

Q. Did you ever hear anything at all about such a conversation having occurred between Mr. Prior and Mr. Louie Robinson? A. No.

Q. Did you ever learn at any time after November 28, Mr. Wingo—I will withdraw that.

Now, let us go back a minute to the morning of November 18th.

Do I understand that you did not go over to the superintendent's office with the crowd that morning?

A. No, I did not go with the crowd. I went to the building after the crowd had went in.

Q. I see.

Then you just stayed outside, is that right?

A. I went in the hallway.

Q. Did you hear Mr. Louie Robinson make any statement to the men who gathered there?

A. No.

Q. Well, how did it happen, then, that you left the hallway [1029] to come back to the gin?

A. I heard some of the men say he said to go back and go to work.

Q. I see.

Then you went back to your gin, is that right?

A. That is right.

Q. How did it happen, then, you took your lunch pail and went home?

(Testimony of H. N. Wingo.)

A. That was after they came back and shut my machinery off the second time.

Q. Who did that? A. Kelly Hammond.

Q. Kelly Hammond? Was there any conversation at that time between you and Kelly Hammond?

A. No.

Q. Did you have any conversation at that time with any of the other Union men?

A. Not that I recall, other than I told Farr, as I went out the front door, I said, "Let's go. There is no use in trying to work here."

Q. Well, why was it that you left, Mr. Wingo?

A. I understood that they ordered all Union men to leave.

Q. And by "they," whom do you refer to?

A. The crowd that was gathered outside in the first meeting. [1030]

Q. You mean these other employees, is that right? A. Yes.

Q. And so you left? A. Yes.

Q. Have you at any time ever applied for your job back? A. No.

Q. At Boswell's? A. No.

Q. Why not?

A. I understood that I couldn't work until this was settled.

Q. Who told you that?

A. Just a rumor. I couldn't say who told me.

Q. Well, did Mr. Prior ever tell you that?

A. No.

(Testimony of H. N. Wingo.)

Q. Were you ever at any Union meeting at which a boycott was declared against Boswell?

A. Yes.

Q. Do you remember when that was with respect to November 18th?

A. Well, it was after November 18th.

Q. How long after, do you remember?

A. No, I don't.

Q. Was it a matter of days or weeks?

A. Days, I think.

Q. You think it was the next day? [1031]

A. I wouldn't say.

Q. Well, at that meeting was any statement made by Mr. Prior or anybody else respecting whether or not you men should go back and apply for jobs?

A. I don't recall it if there was.

Q. At any Union meeting since that time, has there been any statement made to you by Mr. Prior or anybody else to the effect that you should not go and apply for a job at Boswell's?

A. I don't remember.

Q. In other words, as I understand it, you just assumed that if you went there you wouldn't be given a job, is that right?

A. Yes. I got a letter from them stating they didn't—I don't know, I took it that I was fired and laid off permanently.

Q. Have you the letter with you?

A. Yes.

(Testimony of H. N. Wingo.)

Q. Let me see it, will you?

(The document referred to was passed to Mr. Clark.)

Mr. Clark: I will ask that it be marked for identification, your Honor.

You don't mind if we keep it in the hearing here, do you?

The Witness: No.

(Thereupon, the document above referred to was marked as Respondent Boswell Company's Exhibit No. 7 for identification.)

Q. (By Mr. Clark): Did you receive this letter that you have [1032] just given me about the date it bears, namely December 6th of 1938?

A. About that time.

Q. And you, of course, received it through the mail? A. Yes.

Mr. Clark: We offer it in evidence, your Honor.

Mr. Mouritsen: I object to it on the ground it is a self-serving document.

Trial Examiner Lindsay: May I see it?

(The document referred to was passed to the Trial Examiner.)

Mr. Clark: I submit the objection.

Trial Examiner Lindsay: It may be received.

(Thereupon, the document above referred to was received in evidence and marked as Respondent Boswell Company's Exhibit 7.)

(Testimony of H. N. Wingo.)

BOSWELL'S EXHIBIT No. 7

J. G. BOSWELL COMPANY

Cotton Merchants and Manufacturers

Of Cottonseed Products

Home Office, Los Angeles, California

Corcoran, California

December 6, 1938.

Registered mail return receipt requested.

Mr. H. N. Wingo

Corcoran, California

Dear Sir:

Because of the reduced receipts at our plant of seed cotton for ginning, and in accordance with our usual operating practice, we closed down gin #2 on which you were employed, Saturday, December 3, at 5 P. M. and your employment by this Company terminated at that time.

Your closing pay check has been issued and will be delivered to you at the usual place in our Corcoran office.

Yours very truly,

J. G. BOSWELL COMPANY

LOUIS T. ROBINSON

[Endorsed]: Filed May 26, 1939.

Q. (By Mr. Clark): Now, Mr. Wingo, what is there about this letter which leads you to the statement that you thought you were permanently discharged?

(Testimony of H. N. Wingo.)

A. Well, I can't pronounce the word exactly (indicating).

Q. Terminated? A. "At this time."

Q. Well, you understood this letter, didn't you?

A. Yes, I think I did.

Q. Well, what did you understand it to say? [1033]

A. That I was laid off.

Q. Permanently?

A. Well, no, it says at this time.

Q. But doesn't it simply say that "Because of reduced receipts at our plant of seed cotton for ginning——"

A. (Interrupting): Yes.

Q. (Continuing): "——and in accordance with our usual operating practice——"

Mr. Mouritsen (Interrupting): Just a moment. I object to counsel reading something that is in evidence into the record.

Mr. Clark (Continuing): "——we closed down gin Number 2 on which you were employed, Saturday, December 3rd, at 5:00 p. m., and your employment by this Company terminated at that time."

Isn't that all the letter says? A. Yes.

Q. That you had been laid off?

Trial Examiner Lindsay: The document is in evidence and it speaks for itself.

Mr. Clark: I am simply asking the question from the document.

Q. You have been laid off on other occasions, haven't you? A. Yes.

(Testimony of H. N. Wingo.)

Q. In fact, during this same year you had been laid off? [1034] A. Yes.

Q. And yet you went back and applied for your job, didn't you? A. Yes.

Q. But at that time, you didn't belong to the Union, did you? A. No.

Q. And at that time no boycott had been declared against this Company, had it? A. No.

Q. That you know anything about.

Isn't it true that the reason you didn't go back, or you haven't gone back since December 6th and asked for further work at the Boswell Company is that you and all other Union members are taking part in this boycott against the Company? [1035]

Mr. Mouritsen: May I have the question read?

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: Objected to as vague——

Mr. Clark (Interrupting): I will submit it.

Trial Examiner Lindsay: Do——

Mr. Clark (Interrupting): If he understands the question, I submit I have the right to have it answered.

Trial Examiner Lindsay: Read the question again.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: You may answer.

The Witness: No.

Q. (By Mr. Clark): What is your reason?

(Testimony of H. N. Wingo.)

A. I don't work under the conditions as they were when I left there.

Q. And what did you understand those conditions to be?

A. The men said union men couldn't work there.

Q. And by "the men" you mean the other employees of the company, don't you? A. Yes.

Mr. Clark: That is all.

Redirect Examination

Q. (By Mr. Mouritsen): From time to time during your prior [1036] lay-offs, Mr. Wingo, did anyone from the company ever come after you and request that you go back to work?

A. Maybe I didn't understand that.

Mr. Mouritsen: I will reframe it. It is awkwardly put.

Q. Were you ever, after one of your lay-offs, while you were employed by the company, did anyone ever come after you for you to go to work?

A. Yes.

Mr. Clark: All right.

Q. (By Mr. Mouritsen): I mean, did they come to your place and do that? A. Yes.

Q. Did they do that on more than on occasion?

A. Yes; not the same man.

Q. Well, can you give us the name of any persons who did come after you to go to work on some of your prior lay-offs?

A. Mr. Gordon Hammond?

Q. Any other?

A. Nick Thompson. He came to tell me of a job,

(Testimony of H. N. Wingo.)

said Mr. Hammond sent him. It wasn't for Boswell's, the job wasn't.

Mr. Clark: It wasn't for Boswell's? Is that what you said?

The Witness: Yes.

Q. (By Mr. Mouritsen): Well, on the occasion when Mr. [1037] Gordon Hammond came after you to go to work, was that for work at Boswell's?

A. Yes.

Q. Well, for whom did you go to work on the occasion when Nick Thompson came after you?

A. The Tulare Lake and Land Company, I believe the name of the firm is.

Q. What position if any did Nick Thompson ever hold with the J. G. Boswell Company?

A. Well, I understand that he was——

Mr. Clark (Interrupting): I object to that upon the ground it calls for a conclusion of this witness and is hearsay. He starts out by saying I understand this and that.

Trial Examiner Lindsay: If he knows, he may answer.

Mr. Clark: All right. Very well.

The Witness: I don't know definitely. It was generally, he was generally spoken of as the night foreman.

Mr. Clark: Well, I move that the answer go out, may it please your Honor, on the ground it is a conclusion of this witness and is based on hearsay, no authentic information.

(Testimony of H. N. Wingo.)

Trial Examiner Lindsay: Well, these people work out there and they should have some information. The answer may stand for what it is worth.

Mr. Clark: Do I understand that this answer is that this man was the night foreman at Boswell's? [1038]

Trial Examiner Lindsay: Yes, that is my understanding of it.

The Witness: Yes.

Q. (By Mr. Mouritsen): Well, did you ever work on the night shift? A. Yes.

Q. At Boswell's?

And did you take your orders from this man, Nick Thompson? A. I did.

Q. Now, directing your attention to the time when the oil mill, I believe you stated, closed down around the latter part of September 1938, am I correct in stating that you did work in the oil mill at that time prior to the shutdown? A. Yes.

Q. Now, approximately how many days intervened between the time after you were laid off in the oil mill before you started to work in the gin?

A. Well, the best I can recollect, it was some six or eight days. It was a short period of time.

Q. And when you went to work in the gins on that occasion, were—was George Andrade at work at that time? A. I don't think so.

Q. Was R. K. Martin at work at that time?

A. I don't think so. [1039]

Q. Was O. L. Farr at work at that time?

(Testimony of H. N. Wingo.)

A. It seems to me that he went to work the morning I did. I wouldn't be positive.

Q. And did—do you recall whether or not after that time Martin and Andrade came to work?

A. They came back to work, but I couldn't just say just when.

Mr. Mouritsen: Nothing further.

Mr. Clark: Just a few more questions if I may, your Honor.

Recross Examination

Q. (By Mr. Clark): What were you doing before you went to work for Boswell's in 1937?

Mr. Mouritsen: Objected to as immaterial and beyond the issues in the case.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well. I will accept the ruling. That is all.

Mr. Mouritsen: Nothing further.

(Witness excused.)

Mr. Mouritsen: Call Mr. Winslow.

WALTER WINSLOW

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined [1040] and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): What is your name?

A. Walter Winslow.

(Testimony of Walter Winslow.)

Trial Examiner Lindsay: Now, Mr. Winslow, talk right up just as if you were at the plant so we can hear you.

Q. (By Mr. Mouritsen): Where do you live, Mr. Winslow?

A. Out west of town here about two miles.

Q. Have you ever worked for the J. G. Boswell Company? A. Yes, sir. [1041]

Q. Do you recall when you first started to work for that Company? A. September in '35.

Q. What type of work did you start to do for the Company at that time?

A. I started to work as a hay cutter.

Q. What rate of pay did you receive?

A. 30 cents.

Q. 30 cents per hour? A. Yes, sir.

Q. And have you worked for the Company off and on since September, 1935, up to November of 1938? A. I have.

Q. And what types—what different types of work have you done for the Company during that period? A. Well, different types.

Q. Well, will you state—name the types of different kinds of work you have done?

A. I worked in the cattle corrals; worked in the seed house; oil mill; warehouse and outside work.

Q. Did you ever receive any increases in pay after starting to work for the Company?

A. I did.

Q. What were you receiving per hour when you

(Testimony of Walter Winslow.)

last worked for the Company in the year 1938? [1042] A. 40 cents.

Q. From the beginning of 19—from the beginning of your employment, did you ever have any lay-offs that were more than a month in extent?

A. Not until '38.

Q. When during the year 1938 were you laid off for a period of more than a month?

A. One time.

Q. Well, can you give us the approximate beginning and the approximate end of that lay-off?

A. Well, the mill shut down in March, '38, and—the latter part of March, and I was laid off about a month.

Q. And then when did you go back to work for the Company?

A. Well, I got off about a month, to the best of my knowledge. I went back to work chopping weeds.

Q. And where?

A. Out in the cotton yard.

Q. Well, was that at the Boswell Company's plant here in Corcoran? A. It was.

Q. And how long did you continue to do that type of work? A. About a couple of weeks.

Q. Did you work at the plant during the Summer of 1938?

A. Well, just part time work. On, probably, a week, and off a week. [1043]

Q. Well, in the Summer of 1938—strike that. When did you—strike that.

(Testimony of Walter Winslow.)

Did you start to work for the Company in the Fall of 1938 again, steadily?

A. Well, I did when the gin started.

Q. And when was the approximate date when that occurred? A. I couldn't say.

Q. Well, can you fix the month?

A. On or about the latter part of September.

Q. What work did you—strike that.

Did you work in the gins?

A. I worked on the outside of the gin as a—outside of the gin as a—feeding suction.

Q. How long did you continue to do that type of work? A. About two weeks.

Q. What type of work, if any, did you do?

A. I was laid off for five days and started in in the oil mill.

Q. What type of work did you do there?

A. Chasing lint.

Q. How long did you continue to do that?

A. Until the 15th of November.

Q. What year? A. '38.

Q. What occurred on the 15th — strike that. [1044]

Did anything occur on the 15th of November, 1938, that indicated to you that your employment was to cease? A. It did.

Q. Did you ever have a conversation with someone about that matter? A. I did.

Q. With whom? A. Tommy Hammond.

Q. And where did the conversation take place?

A. Right at the back of the lint room.

(Testimony of Walter Winslow.)

Q. Was anyone else present other than you and Mr. Tom Hammond?

A. Williams, W. E. Williams.

Q. Who is W. E. Williams?

A. A Boswell employee.

Q. Was he at that time an employee?

A. He was.

Q. Did he take any part in the conversation?

A. No, he didn't.

Q. Will you state what you said to Tommy Hammond and what Tommy Hammond said to you at that time?

Mr. Painter: Objected to as hearsay, and not binding on any of the Respondents; on the further ground that no authorization was shown.

Trial Examiner Lindsay: He may answer.

The Witness: Tommy Hammond came out a couple or three times [1045] during the 15th of November.

Q. (By Mr. Mouritsen): Well, did you fix the first conversation you gave?

Mr. Painter: May I have that answer, Mr. Examiner?

Trial Examiner Lindsay: Let us not both talk at the same time.

What did you want?

Mr. Painter: The answer that the witness gave just prior to the last question, and I didn't get the first part of the question.

Trial Examiner Lindsay: Read the answer and the question.

(Testimony of Walter Winslow.)

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Now, you may answer.

The question means, what was the first conversation?

The Witness: Well, the first time he came out he said, "It looks like the mill is going to have to shut down on account of the boys joining the Union."

Q. (By Mr. Mouritsen): Did you say anything at that time?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: Well, I didn't say anything at that time.

Q. (By Mr. Mouritsen): After that time, did you have a further conversation with Mr. Tommy Hammond? A. I did. [1046]

Q. And where did that conversation take place?

A. At the back of the lint room up by the scales.

Q. Was anyone else present other than yourself and Mr. Tommy Hammond at that time?

A. That was the time Williams was there.

Q. Well, what did you say to Mr. Tommy Hammond at that time, and what did he say to you?

Mr. Painter: Objected to as hearsay and not binding on these Respondents, and no authorization shown on behalf of Tommy Hammond.

Trial Examiner Lindsay: He may answer. [1047]

The Witness: Tommy Hammond said, "We are

(Testimony of Walter Winslow.)

shutting the mill down tonight at 6:00 o'clock on account of the union. Where are you going to place your card at any other place but here?"

I said I thought I could.

Q. (By Mr. Mouritsen): Was anything further said at that time?

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: He said, "We can't use here at this plant and no place else."

Q. (By Mr. Mouritsen): Do you recall anything further that was said at that time?

A. No, I don't.

Q. Well, after that conversation—strike that.

Did you have a further conversation with him on that day? A. No.

Q. Well, was that the conversation that indicated to you that your work was terminated at that time?

Mr. Painter: Objected to as calling for a conclusion of the witness.

The Witness: You mean on the 15th?

Trial Examiner Lindsay: He may answer.

Mr. Mouritsen: Strike that. [1048]

Q. When did you last work for the J. G. Boswell Company? A. November 15th.

Q. Now, did you have another conversation—strike that.

Was that the conversation that indicated to you that your employment was terminated?

(Testimony of Walter Winslow.)

And I will stipulate that the objection made applies.

The Witness: On the 15th.

Q. (By Mr. Mouritsen): Well, I understand, Mr. Winslow, that the 15th was the last day you worked. A. Yes, sir.

Q. Now, some time during that day did somebody lay you off?

A. Joe Hammond did that night.

Q. Oh, well, this conversation that you referred to with Tom Hammond wasn't the conversation that indicated to you that you were laid off, is that correct?

A. I knew it about 2:00 or 3:00 o'clock in the afternoon.

Q. This conversation with Tom Hammond wasn't the conversation that indicated to you that you were laid off? A. No.

Q. Now, I believe you stated that you had a later conversation with Joe Hammond at which he told you you were laid off, is that correct?

A. Yes, I did.

Q. Where did that conversation take place? [1049]

A. Right back of the lint room.

Q. Was anyone else present other than yourself and Joe Hammond at that time?

A. There was.

Q. Who else was present?

A. Dick White, W. E. Williams, Doc White, myself, and Tom Donohough. That was it.

(Testimony of Walter Winslow.)

Q. Approximately how late, or what was the time of day? A. 5:00 o'clock.

Q. What did Mr. Joe Hammond say to you at that time?

Mr. Painter: Objected to as hearsay and not binding on these respondents.

Trial Examiner Lindsay: He may answer.

The Witness: He didn't exactly say it to me. He said it to the bunch of us, to the group.

Q. (By Mr. Mouritsen): What did he say?

Mr. Painter: Same objection.

Trial Examiner Lindsay: The same ruling.

The Witness: He came out about 5:00 o'clock where the men—there was a bunch there kind of squatting down and talking, and he said, "Well, I am sorry, but we are going to shut the mill down." That was 5:00 o'clock.

It always takes about an hour to dry the linters for the stuff to all run out of the expellers.

Q. (By Mr. Mouritsen): Do you recall anything further that [1050] he said or that anyone else in that crowd said?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: No, I don't.

Q. (By Mr. Mouritsen): Now, prior to that time, or prior to that last lay-off, had you ever been notified by anyone from the company—strike that.

How had you been notified, if you had been notified, to return to work on prior lay-offs?

(Testimony of Walter Winslow.)

A. Well, by Julius Hammond, by Tommy and Joe—they came after me at different times.

Q. They came to your house and notified you that you were to come to work? A. Yes, sir.

Q. Have you since that time, that is, November 15, 1938, been notified to return to work?

A. No, sir.

Q. During the course of your employment with the J. G. Boswell Company do you recall an occasion when you refused to obey on order of Tom Hammond's?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Yes, sir.

Q. (By Mr. Mouritsen): Do you recall about when that event [1051] occurred? A. In '36.

Q. Which part?

A. The first part, around the first of the year.

Q. Is there any way by which you can fix the date more specifically than by around the first of the year?

A. No, only, I think, I put in three months as a hay cutter and then I first transferred to the seed house.

Q. This occurred when you were first transferred to the seed house, is that correct?

A. Yes, sir. [1052]

Q. And after you refused to obey the order of Tom Hammond, did you ever have a conversation with Gordon Hammond about that matter?

(Testimony of Walter Winslow.)

A. I did.

Q. Do you recall how long after you refused to obey the order that you had the conversation with Gordon Hammond?

A. Not over a day or two.

Q. Do you recall where the conversation took place?

A. In the seed house.

Q. Was anyone else present other than you and Mr. Gordon Hammond?

A. No, there wasn't.

Q. Will you state what Mr. Gordon Hammond said to you on that occasion, and what you said to Gordon Hammond?

A. Well, he said, "I am accustomed for men taking orders from Joe or Julius or Tommie, and I expect them to be carried out. If a man cannot take orders from them, I have no use for him any longer."

Q. Do you recall anything further that was said at that time?

A. No.

Q. Speak out loud for the reporter.

A. No; not at that time.

Q. Have you earned any money since your lay-off on November 15th, 1938? [1053]

A. I have.

Q. Do you know approximately how much money you have earned since that time?

A. I do.

Q. Will you state the approximate amount of money you have earned since that time?

A. \$9.50.

(Testimony of Walter Winslow.)

Q. While you were employed by the J. G. Boswell Company, did you ever become a member of a labor organization? A. I did.

Q. Of what organization did you become a member?

A. The Cotton Products and Grain Mill Workers' Union, 21798.

Q. And on approximately what date?

A. The Ninth of November, I signed my application.

Q. In what year? A. '38.

Q. After you signed your application on or about November 9th, 1938, did you attend any meetings of the Union?

A. Not as I recall until the 16th.

Q. At that meeting of the 16th, did you see Mr. E. C. Powell present? A. I did.

Q. Do you recall whether or not he said anything to you or you said anything to him at that meeting?

Mr. Painter: Objected to as incompetent, irrelevant and [1054] immaterial.

Mr. Mouritsen: I think I should be permitted to ask my question.

Mr. Painter: I beg your pardon. I thought you were through.

Mr. Mouritsen: May I have it re-read?

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.)

(Testimony of Walter Winslow.)

Q. (By Mr. Mouritsen) (Continuing): —of November 16th, 1938?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: No, I cannot say that I do.

Q. (By Mr. Mouritzen): Now, Mr. Winslow, if the National Labor Relations Board should order your re-instatement with back pay, would you be willing to accept employment with the J. G. Boswell Company? A. I would.

Trial Examiner Lindsay: We will adjourn now until 8:30 in the morning.

(Whereupon, at 4:30 o'clock p. m., May 26, 1939, the hearing was adjourned to 8:30 o'clock a. m., Saturday, May 27, 1939.) [1055]

American Legion Hall,
Corcoran, California,

Saturday, May 27, 1939.
8:30 o'clock a. m. [1056]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Respondents are ready.

Mr. Mouritsen: Ready for the Board.

Mr. Examiner, at the opening of the Board's case,

I stated that we would endeavor to present first, the evidence against the J. G. Boswell Company, and then against the Associated Farmers, and then against the Corcoran Telephone Exchange. However, one of the witnesses in the matter of the Corcoran Telephone Exchange will not be available later, and we desire at this time to put the witness on the stand.

Mr. McTernan, my associate, will conduct the examination.

Trial Examiner Lindsay: If it is agreeable to counsel for the Respondents.

Mr. Clark: Except for this, Mr. Examiner, in behalf of Boswell Company and the Associated Farmers of Kings County, I want to make the objection heretofore interposed to any testimony, or rather the reception of any evidence in support of the so-called Dunn charge, which is the one I understand involving the Corcoran Telephone Exchange, upon the ground that there was no service of that charge upon these Respondents, that is, Boswell Company or Associated Farmers of Kings County, as required under the Act.

I believe I have stated the grounds fully, and your Honor has ruled upon that general proposition. I made an objection at [1058] the outset, and I now make it in the form of a motion to exclude this evidence.

Now, further, on behalf of the Associated Farmers of Kings County, I want to point out to the Court and base the motion upon this further ground, that

nowhere in this complaint or in the fourth amended charge is it claimed or alleged that the Associated Farmers of Kings County have acted in the interest of the Corcoran Telephone Exchange or as an employer in connection with the Corcoran Telephone Exchange within the meaning of that term as used in the Act.

Mr. Wingrove: Your Honor——

Mr. Clark (Interrupting): Might I add one further thing: I don't wish to argue it, Mr. Lindsay. I simply want to make it for the record and take the ruling on it.

Mr. Wingrove: Mr. Examiner, as counsel for the Corcoran Telephone Exchange, I have no objection to the attorney for the Board putting the witness on out of order. However, I do desire at this time to interpose an objection to the taking of the testimony on the ground that the Respondent, Corcoran Telephone Exchange, has never been served with the charge by Mrs. Dunn; the only charge being one filed by Mr. Prior, representative of the Union, and there being no authority shown or connection between Mrs. Dunn and Mr. Prior.

I also desire to object to the introduction of testimony on the ground that there has been no proof shown of the juris- [1059] diction of the Board as far as the Corcoran Telephone Exchange is concerned.

Mr. Clark: We will also subscribe, on behalf of Boswell Company and Associated Farmers of Kings County, to that last objection, your Honor, that

there has been no proof of the jurisdiction of the National Labor Relations Board, or rather no proof which would support the Board taking jurisdiction over the Corcoran Telephone Exchange.

Now, I likewise have no objection at all to the witness being called out of order.

Trial Examiner Lindsay: Now, have both of you gentlemen completed your——

Mr. Clark (Interrupting): Yes, I think so.

Trial Examiner Lindsay (Continuing): —— your motions?

Mr. Wingrove: Yes, your Honor.

Trial Examiner Lindsay: Have you anything to say on this matter, Mr. Mouritsen?

Mr. Mouritsen: Mr. Examiner, the allegations in the complaint are that the Corcoran Telephone Exchange is subject to the jurisdiction of the Board in either of two ways. Perhaps, or I would have no objection, to taking this testimony at this time subject to a motion to strike in the event that the allegations of jurisdiction are not later proved.

Trial Examiner Lindsay: The motions are denied, and you may proceed. [1060]

Mr. McTernan: Miss Dunn.

DOROTHY DUNN

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. McTernan): Will you state your full name, please? A. Dorothy Dunn.

Q. And your address?

A. You mean my Los Angeles address?

Q. Well, wherever your residence is.

A. 801 Hillgard, Los Angeles, California.

Q. You are here under subpoena, are you not, Miss Dunn? A. Yes, sir.

Q. Are you the daughter of Margaret A. Dunn?

A. Yes, sir. [1061]

Q. Are you acquainted with Drexel H. Sprecher?

A. Yes.

Q. Could you tell us who he is?

A. Mr. Sprecher is an attorney for the National Labor Relations Board in Washington, D. C.

Q. When did you first meet Mr. Sprecher?

A. I met Mr. Sprecher in Los Angeles, on a bus in Los Angeles.

Q. In what year was that, Miss Dunn?

A. This year.

Q. 1938? A. 1939.

Q. 1939. Pardon me.

Well, where did you meet Mr. Sprecher? I mean, under what circumstances did you meet Mr. Sprecher?

Mr. Wingrove: I object, Mr. Examiner, on the

(Testimony of Dorothy Dunn.)

ground it is incompetent, irrelevant and immaterial whether this witness met Mr. Sprecher or not, no bearing on the case.

Mr. Clark: The same objection on behalf of the Associated Farmers of Kings County and the Boswell Company.

Trial Examiner Lindsay: Will you gentlemen come up here a minute?

(Conference between counsel and Examiner Lindsay.)

Mr. McTernan: May we have the last question read?

Trial Examiner Lindsay: Yes, read the last question. [1062]

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: She may answer.

The Witness: I met Mr. Sprecher at the Los Angeles bus station. We were both going to Corcoran on the same bus.

Q. (By Mr. McTernan) And you accompanied him on the trip to Corcoran? A. Yes, sir.

Q. Well, when you arrived in Corcoran did anyone meet you at the station?

A. Mr. Prior met us at the station.

Q. Did you know Mr. Prior before that time?

A. No, I did not.

Q. Well, then, what occurred?

A. Mr. Prior and Mr. Sprecher and I got into Mr. Prior's car and came over to my house; and

(Testimony of Dorothy Dunn.)

at that time Mr. Sprecher got out of the car and went into the house with me and Mr. Prior remained in the car.

Q. Was anybody else in the house when he came in with you?

A. My brother and my sister and Mr. Secord.

Mr. Clark: May I have the last name?

Trial Examiner Lindsay: Mr. Secord. Is that right?

The Witness: Mr. Secord, yes.

Q. (By Mr. McTernan) Well, could you give us the name of [1063] your brother and sister?

A. My brother Jack Dunn and my sister Margaret Dunn.

Q. Did any conversation follow this meeting when you came into the house?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial on behalf of Boswell and the Associated Farmers of Kings County.

Mr. Wingrove: I have the same objection on behalf of the Telephone Exchange.

Trial Examiner Lindsay: She may answer.

Q. (By Mr. McTernan) Answer that yes or no.

A. Yes.

Q. Will you state what you said to them, any of them, or what any of them said to you?

Mr. Wingrove: Objected to as hearsay, not binding on respondent Telephone Exchange.

Mr. Clark: The same objection on behalf of the other respondents.

(Testimony of Dorothy Dunn.)

Trial Examiner Lindsay: She may answer.

The Witness: I introduced Mr. Sprecher and Mr. Prior to each other, and Mr. Sprecher is the attorney for the N.L.R.B. And Mr. Secord is an employee of the Boswell Company.

There wasn't anything said at that time—I mean between the two of them—except acknowledging the introduction; [1064] nothing said until Mr. Sprecher left.

Q. (By Mr. McTernan) After that you say Mr. Sprecher left the house? A. Yes, sir.

Q. Could you tell us the conversation that took place after Mr. Sprecher left?

Mr. Clark: Just a minute. I am going to object to that on behalf of the respondent Boswell and the Associated Farmers of Kings County on the ground it is hearsay and not binding upon either of the respondents, and incompetent, irrelevant and immaterial what was said between this lady and the other persons present after Mr. Sprecher had left even.

Mr. Wingrove: The same objection as to the Telephone Exchange.

Trial Examiner Lindsay: She may answer.

The Witness: I was at that time speaking with Mr. Secord and he told me of the ill feeling toward Mr. Prior and that it was very bad for me to be with him.

Q. (By Mr. McTernan) Is that all that he said?

(Testimony of Dorothy Dunn.)

A. There was more conversation, but it had very little bearing or connection with Mr. Prior.

Mr. Clark: May the same objection be interposed to the last question, your Honor?

Trial Examiner Lindsay: Yes. It is overruled, the ob- [1065] jection.

Q. (By Mr. McTernan) When did you next meet Mr. Sprecher?

A. I didn't—I saw Mr. Sprecher on the street the next day in Corcoran.

Q. When did you next see Mr. Prior?

A. I saw Mr. Prior on the next day also.

Q. And after that when did you next see Mr. Prior?

A. I didn't see Mr. Prior again until about the—oh, a week or so later, about the 8th of February.

Q. Yes.

A. And at that time I saw him at the—while he was at the picket line at the Boswell Company.

Q. Will you give us a little more detail about that meeting with Mr. Prior, what were the circumstances?

A. Well, my sister and I were driving——

Q. (Interrupting): Which sister? Could you name her, please?

A. My sister Margaret and I were riding out by the Boswell Company, and I was driving the car, and when we passed the picket line and I saw Mr. Prior in one of the picket cars, he waved; and I had been informed by Mr. Prior that Mr. Sprecher

(Testimony of Dorothy Dunn.)

would be in town the next day. And I had had a letter from Mr. Sprecher saying he wouldn't, so I thought maybe Mr. Prior wanted to tell me about it. So I turned around and drew up across the street from the picket car and Mr. Prior got out of the picket car and stood on the outside of my car. [1066]

Q. Could you give us what you said to him, and what he said to you at that time?

Mr. Clark: Objected to on the ground it is hearsay, and not binding on the Respondents Boswell and the Associated Farmers, and incompetent, irrelevant and immaterial.

Mr. Wingrove: The same objection as to the Telephone Exchange.

Trial Examiner Lindsay: She may answer.

The Witness: Mr. Prior spoke to me—first, I told Mr. Prior about Mr. Sprecher would not be in town, and he said he had heard about that; and we talked about Mr. Sprecher, just a few personal things that were said about my knowing Mr. Sprecher. And then we talked on about the case.

Q. (By Mr. McTernan) What case?

A. The Boswell strike.

And he told me about the hearings that would be held and we didn't discuss anything about them except that he said just as a spectator it would be very worth while and interesting for me to attend the hearings.

Q. While you were talking to Mr. Prior, did anyone see you or come by? A. Yes.

(Testimony of Dorothy Dunn.)

Q. Who was that?

A. Mr. Forrest Riley and his daughter, Hazel.

Q. Did they see you, or give any indication of the fact that [1067] they saw you?

A. Yes, they waved to us.

Q. Did they come back again? A. Yes.

Q. And did they wave to you again?

A. I don't believe so.

Q. Did they look at you? A. Yes.

Q. Have you ever seen either Mr. Prior or Mr. Sprecher since that time? A. No, sir.

Q. Did you ever have any further conversations with Mr. Secord whom you have mentioned before?

A. Yes, I did.

Q. When was that?

A. About two or three days after I had been out to the picket line.

Q. Where was this conversation held?

A. This conversation was held in the soda fountain in Corcoran.

Q. Was anyone else present within hearing distance? A. No.

Q. Can you tell us what you said to Mr. Secord, and what Mr. Secord said to you?

Mr. Wingrove: Objected to as hearsay, and incompetent, [1068] irrelevant and immaterial, and not shown to be authorized or in anywise connected with the Respondent, Corcoran Telephone Exchange.

Mr. Clark: The same objection in behalf of the remaining Respondents, your Honor.

(Testimony of Dorothy Dunn.)

Trial Examiner Lindsay: She may answer.

The Witness: Mr. Secord told me I was very much in the wrong with the people of Corcoran, that I had been seen at the picket line, and that many of the employees of the Boswell Company had seen me, and were very worked up over the fact I had been there.

Q. (By Mr. McTernan) Did he mention any names of people that had seen you there?

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: After he told me that many of the employees had seen me, he said I should apologize to Mr. W. W. Boswell for he was very angry at the fact that I had been there.

Mr. Clark: May I have that last answer read, please?

Trial Examiner Lindsay: Yes. Read the last answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. McTernan) Who is Mr. W. W. Boswell?

Mr. Clark: Objected to upon the ground it calls for hearsay, and a conclusion of this witness. [1069]

Trial Examiner Lindsay: If she knows W. W. Boswell, she may state who he is.

The Witness: W. W. Boswell is the brother of J. G. Boswell, owner of the J. G. Boswell Company.

(Testimony of Dorothy Dunn.)

Q. (By Mr. McTernan) In the beginning of your testimony, Miss Dunn, you gave your address as 801 Hillgard, Los Angeles. Is that your home address, or is that where you go to school?

A. That is where I go to school.

Q. Could you give us your home address?

A. 1310 Jepson Avenue, Corcoran, California.

Mr. McTernan: You may inquire.

Cross Examination

Q. (By Mr. Wingrove) You say you met Mr. Strecher when you came to Corcoran in the bus with him? A. Yes.

Q. This was about February 1st?

A. Yes, sir.

Q. And Mr. Secord was on the bus at that time, was he?

A. No. Mr. Secord was at my home in Corcoran.

Q. Did you and Mr. Sprecher return to your home in Corcoran, as I understand it, and Mr. Prior was there, was he, at your house, met you at the bus station, is that correct? A. At the depot.

Q. Then the three of you went to your home?

A. Yes. [1070]

Q. And Mr. Prior had met Mr. Sprecher before this time?

A. No. Mr. Prior had not met Mr. Sprecher before this time.

Q. Did Mr. Prior go into the house with you?

A. He did not.

Q. Just Mr. Sprecher and yourself?

(Testimony of Dorothy Dunn.)

A. Yes.

Q. And was Mr. Secord in the house?

A. Yes, he was.

Q. And your brother Jack and your sister Margaret were there? A. Yes.

Q. You say Mr. Secord was employed at the J. G. Boswell Company at that time?

A. Yes, he was.

Q. What did he do at the J. G. Boswell Company, do you know? A. He was an engineer.

Q. And that was the time he told you it was very bad for you to be seen with Mr. Prior, is that right? A. Yes.

Q. And later on, after you had stopped at the picket line, Mr. Secord told you you were in bad because you had been seen talking with the pickets?

A. Yes.

Q. And that Mr. Boswell didn't like it?

A. Yes.

Q. And did you ever talk to Mr. Boswell about the matter? [1071] A. Oh, I didn't.

Q. Did you ever talk to Mr. Glenn of the Corcoran Telephone Exchange about this matter?

A. No, I didn't.

Mr. Wingrove: That is all.

Mr. Clark: May I ask a few questions on behalf of the remaining Respondents, Mr. Examiner?

Cross Examination

Q. (By Mr. Clark) Miss Dunn, had you known Mr. Sprecher prior to the time you met him at the bus station? A. No.

(Testimony of Dorothy Dunn.)

Q. You had not met him prior to the occasion you have told us about? A. No.

Q. You got acquainted with him on the bus coming up here to Corcoran, is that right?

A. Yes.

Q. You had known Mr. Prior before that time, though, hadn't you? A. No.

Q. Didn't you tell us on your direct examination that you introduced Mr. Prior to Mr. Sprecher at your home here in Corcoran?

A. I introduced Mr. Sprecher to Mr. Secord.

Q. Oh, I see. [1072]

And you did not testify that you introduced Mr. Prior to anyone, or that you introduced Mr. Sprecher to Mr. Prior? A. No, sir.

Q. All right.

Now, let me direct your attention, if I may, to the time when you have told us you and your sister, I believe, drove down by the Boswell plant and waved to Mr. Prior and the picket car.

Do you remember that occasion?

A. Yes, I didn't wave to him.

Q. I mean, you saw him in the picket car?

A. Yes.

Q. You remember the occasion I am referring to, don't you? A. Yes, I do.

Q. Will you fix the date of that for us, please?

A. That was the 8th of February?

Q. This year? A. Of this year.

Q. Now, on that occasion, did you and Mr. Prior,

(Testimony of Dorothy Dunn.)

after you discussed the coming case before the Board, say anything about the strike of the Union against the Boswell plant? A. We did not.

Q. Did you mention the word "strike?"

A. I don't recall.

Q. Did Mr. Prior mention the word "strike" to you? [1073] A. I don't remember.

Q. Do you remember using that term on your direct examination here this morning?

A. Yes.

Q. You remember the connection in which you used it?

Trial Examiner Lindsay: May I have that question, please?

Q. (By Mr. Clark) Do you remember the connection in which you used it this morning?

A. No.

Q. Will you repeat—withdraw that.

Didn't Mr. Prior tell you on that occasion, Miss Dunn, that the members of the Union who had been employed by the Boswell Company prior to that time were on strike against the Company?

A. He did not.

Q. Do you remember anything at all he said about the existence of a strike?

A. We weren't talking about the strike. We were talking about my relationship with Mr. Sprecher, and then we discussed the hearing. That is all that was said. We weren't talking about the pickets.

Q. I see.

(Testimony of Dorothy Dunn.)

Then there was no mention at all of there being a strike in that conversation, is that true?

A. That is right. [1074]

Mr. Clark: That is all.

Mr. McTernan: No further questions.

(Witness excused.)

Mr. Clark: Now, may it please your Honor, just for the record, and in view of the response of Mr. Mouritsen to part of the objection which was made, I would like to move to strike this lady's testimony from the record, such motion being made on behalf of the Respondents Boswell and the Associated Farmers of Kings County, upon the grounds previously stated in support of the objection and upon the further ground that there is no jurisdiction shown by the record in the Board over either of these Respondents; and, further, there is no allegation at all in the complaint that either of the Respondents for whom I am making the objection, to-wit, Boswell and Associated Farmers of Kings County, Inc., acted in the interest of the Corcoran Telephone Exchange or come within the definition of employer under the Act.

Mr. Wingrove: I also desire to interpose a motion to strike the entire testimony on the grounds stated before the witness took the stand, namely, that there is no showing of any jurisdiction by this Board, and on the further ground——

Trial Examiner Lindsay (Interrupting): Over what Respondent?

Mr. Wingrove: The Respondent, Corcoran Telephone Exchange.

Trial Examiner Lindsay: May I see these Exhibits, please? [1075]

(The Exhibits referred to were passed to the Trial Examiner.)

Mr. Wingrove: I would also like to add to that motion, if the Examiner please, that the testimony of this witness be stricken, on the further ground that it is incompetent, irrelevant and immaterial, and has no bearing on the case, and does not tend to prove or disprove any of the issues in the case so far as the Respondent Corcoran Telephone Exchange is concerned.

Trial Examiner Lindsay: Well, off the record.
(Discussion outside the record.)

Trial Examiner Lindsay: The motions are denied. [1076]

Mr. Clark: Now there is just one thing I would like to clear, Mr. Examiner, if I may state it:

May the record show that Mr. Wingrove's cross examination was conducted this morning on behalf of the respondent Corcoran Telephone Exchange and my cross examination was on behalf of the other two respondents? I think I stated that at the outset.

Trial Examiner Lindsay: Yes.

Mr. Mouritsen: Yes.

Trial Examiner Lindsay: We will adjourn until Wednesday morning at 10:00 o'clock.

(Thereupon, at 9:10 o'clock a. m., the hearing was adjourned until 10:00 o'clock a. m., Wednesday, May 31, 1939.) [1077]

American Legion Hall,
Corcoran, California,

Wednesday, May 31, 1939.

10 o'clock a. m.

[1078]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

WALTER WINSLOW

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Direct Examination (Continued)

Q. (By Mr. Mouritsen) Mr. Winslow, prior to the time when you were laid off in November, 1938, did you ever have a conversation with Tom Hammond regarding your membership in the Union?

A. I did.

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

(Testimony of Walter Winslow.)

Q. (By Mr. Mouritsen) And how long prior to your lay-off did this conversation take place?

A. About two days.

Q. Where did the conversation take place?

A. Back of the lint room.

Q. Was anyone else present other than yourself and Tom Hammond?

A. Not in hearing distance.

Mr. Clark: May I have the answer?

Trial Examiner Lindsay: "Not in hearing distance."

Is that right? [1080]

The Witness: That is right.

Q. (By Mr. Mouritsen) Will you state what Mr. Hammond said to you at that time, and what you said to Mr. Hammond?

Mr. Painter: Objected to as hearsay, not binding upon the Respondents, no authorization shown for Mr. Hammond to speak for the Company.

Trial Examiner Lindsay: He may answer.

The Witness: Well, he came up in back of the lint room where we were standing out there—I was standing out by the scales—and he said, "Have you joined the Union?"

I said, "I have."

He said, "Have those other boys over here that is working with you" (indicating by motion of the thumb to the rear), "have they joined?"

I said, "Not as I know of."

Mr. Mouritsen: Let the record show that the

(Testimony of Walter Winslow.)

witness indicated the back, or motioned with his thumb when he said "the other boys."

The Witness: He meant the boys that were working.

Q. (By Mr. Mouritsen) Who were those? Do you recall who was present at that time, other than yourself, to whom he motioned in that manner?

A. Doc White, W. E. Williams and Nolan Butcher.

Q. Did you have any further conversation with him at that time? [1081]

A. No, I didn't.

Q. I believe you testified that the first Union meeting you attended was on November 16th, 1938, is that correct?

A. No. I was to a get-together on the 11th.

Q. Of what month and of what year?

A. November of '38.

Q. Where did that—strike that.

Was this get-together on the 11th a formal meeting of the Union?

A. No. I think it was mostly a get-together, as best I remember.

Q. Where did it take place?

A. Over at Lonnie Spear's.

Q. Do you recall the names of any other people who were present other than you? A. I do.

Q. Will you state them?

A. Coon—Mr. Coon. [1082]

Q. Is that E. C. Powell?

(Testimony of Walter Winslow.)

A. Yes, E. C. Powell.

R. K. Martin, Lonnie Spear, and George Andrade, Elgin Ely, and Johnston.

There were several more there, but that is about all that I can recall their names.

Q. Now—strike that.

Were you initiated into the union after that time?

A. I was.

Q. And on what date, if you recall?

A. 16th of November, 1938.

Q. Now, after your lay-off on November 15, 1938, did you ever attend a meeting in the company's offices at which Mr. Howard, a field examiner for the National Labor Relations Board, was present?

A. I did.

Q. Do you recall the approximate date of that meeting?

A. On or about the 17th of January.

Q. What year?

A. 1938.

Q. What year?

A. 1938.

Q. Was that 1938 or 1939?

A. In 1939.

Q. And where did this conversation—where did this con- [1083] ference take place?

A. Louie Robinson's office.

Q. In the plant here in Corcoran?

A. J. G. Boswell, yes.

Q. Do you recall who—strike that.

How were you invited to the conference, or how were you notified?

A. I and George Andrade—we were just out

(Testimony of Walter Winslow.)

riding around and we came down to town here to the Corcoran Hardware. We pulled into the curb and Mr. Howard pulled in about the time we did.

He said, "come over here a minute, boys."

We stepped over to the car where he was at, and he asked us to come down there.

Q. And did you go down to the——

A. (Interrupting): We got into my car and went down there. By that time Mr. Howard and a few others were there by the time we got there.

Q. Will you state who other than yourself and Mr. Howard were present at that time?

A. On the inside of the office?

Q. In the office—in Louie Robinson's office on that occasion?

A. There was Louie Robinson, Bill Boswell, and Prior, Oliver Farr, Lonnie Spear, R. K. Martin, Elgin Ely, and Johnston, [1084] and Kelly Hammond, Bill Robinson, myself, and George Andrade. That is all I recall.

Q. Now, during that conference did you personally have any conversation with Louis T. Robinson? A. I did.

Q. Will you state what was said by yourself and what was said by Mr. Louis T. Robinson in that conversation?

A. I don't recall just how it came about, but he asked me if I took orders from Tommy Hammond. And I told him I did. And he said, "If Tommy Hammond told you something that you

(Testimony of Walter Winslow.)

didn't really think was right, would you go ahead and do it?"

I said, "I would, because when I first started to work in '36—it was in '36, the first month—he told; and Gordon told me if I—to take orders from him, if I couldn't carry them out I might as well quit."

And I turned around to Louie.

Q. Did Louie say anything to you after you made that statement? A. Yes.

Q. What did he say?

A. He said, "I won't hire you no more," or see that you wasn't hired no more, or something like that there. [1085]

Q. Did you say anything?

A. Yes. I said, "If they put you in my position—you were working for a guy and taking orders from him, and when you first started to work for him and you refused to carry out the orders or didn't carry out just what he said, and a higher guy than him came around and told you to carry out his orders, and wanted you to do so, and you had been taking orders as much as three or more years after that"—and he didn't say anything, and dropped his head.

Q. You say Louis T. Robinson didn't say anything in answer to your question?

A. No, he didn't.

Q. After your lay-off—strike that.

Did you have any further conversation with him at that time? A. No, I didn't.

(Testimony of Walter Winslow.)

Q. After your lay-off of November 15th, 1938, did you ever apply for work after that time?

A. No, I didn't.

Q. Why didn't you apply for work after that time?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: I didn't figure there was any use after the conversation I had with Tommy on the 15th of November, the day [1086] I was laid off.

Mr. Painter: May I have that answer read back?

Trial Examiner Lindsay: Yes. Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) I believe you testified on your prior examination that you were hired and laid off on a number of occasions prior to your final lay-off on November 15th, 1938; is that correct? A. Yes.

Q. Now, on any of those prior occasions, when you were called back to work, were you ever called back by Gordon Hammond?

A. Gordon never did come to my home and ask me to come back.

Q. Did anyone come to your home and ask you to come back? A. Yes.

Q. Who were they?

A. Tommie has come, and Joe Hammond came

(Testimony of Walter Winslow.)

after me, and Kelly Hammond came after me, and Julius Hammond.

Q. Now, on these prior occasions, prior to November 15th, 1938, when you were laid off, did Gordon Hammond notify you of your lay-offs on any occasion?

A. The best I recall, Gordon never laid me off over once or twice.

Q. And on the other occasions, who laid you off?

A. It would be Tommie or Joe or Julius, when Julius was down [1087] there.

Q. Tommie, Joe and Julius. What are their last names? Please?

A. Hammond. They are all brothers.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Painter) Mr. Winslow, I believe you testified in your direct examination that you, during the course of time you were employed there, you had done the following work—type of work, rather: Hay cutter. You worked in the cattle corral, in the seed house and in the lint room in the mill, and in the warehouse and outside work chopping weeds and feeding the suction on the gin; is that correct?

Were there any other types of work that you did during that time that you can recall?

A. That is about as well as I can place it. [1088]

(Testimony of Walter Winslow.)

Q. Can't think of anything else that you did during the time you worked there?

A. That covered about everything there is there to cover.

Q. In other words, you have done a little bit of everything? A. A little bit of everything.

Q. Now, when did you sign an application to join the union? A. 9th of November.

Q. The 9th.

And then you attended this meeting on the 11th that you mentioned this morning? A. I did.

Q. You actually were initiated after you had been laid off, is that right? A. Yes.

Q. Now, directing your attention to the time that the mill opened in October, do you recall that approximately, that time? I think it was the latter part of October that the mill opened.

Mr. Mouritsen: Objected to as indefinite. Let us have the year fixed.

Trial Examiner Lindsay: What year?

Mr. Painter: 1938.

The Witness: (Pause).

Trial Examiner Lindsay: Read the question. I don't believe you had completed it. [1089]

Mr. Painter: I was just directing his attention to that time.

Q. Do you recall when the mill opened in October? A. No, I don't, the date.

Q. Well, do you remember the fact that it did open in October some time?

(Testimony of Walter Winslow.)

A. (Pause) I wouldn't even say that.

Q. You went to work in the mill, did you not, during the months of October and up to the time that you were laid off?

A. Well, I went to work when the mill started up.

Q. Yes. That is what I am directing your attention to, then.

A. As far as the date, I couldn't tell you that.

Q. Do you recall just shortly before the mill opened up, at that time, that is, the last time that you worked in the mill, that Gordon Hammond brought a list around to you and asked you to sign along with the other employees as to your preference whether you would work 8 or 12 hours?

A. I did.

Q. And you signed that indicating a preference of 12 hours, did you not? A. I did.

Mr. Mouritsen: This is objected to as incompetent, irrelevant and immaterial; has no bearing upon the issues in this matter. [1090]

The Witness: I would like to go ahead and finish that there. He has started on it.

Trial Examiner Lindsay: The answer may stand.

Q. (By Mr. Painter) Now, at the time——

Mr. Mouritsen (Interrupting): May the witness be permitted to finish?

Mr. Painter: Pardon me.

The Witness: When he brought that paper

(Testimony of Walter Winslow.)

around, I understood about three or four days before he brought it around, rumors went around that a man didn't sign 12 hours, he wasn't to have a job; couldn't go back into the mill. A few of the employees, Kelly Hammond, Burdine and Mitchell, two or three of the others had their names up there first, 12 hours, and I understood if it was 8 hours they wouldn't start the mill and 12 hours they would start the mill, and I figured, well, if I sign 8, I ain't got no job and if I sign 12 I go ahead and work when the mill starts up.

Mr. Painter: I move that the latter part of the answer be stricken as not responsive, hearsay, and not binding upon these respondents.

Trial Examiner Lindsay: The answer may stand. [1091]

Q. (By Mr. Painter) At the time you signed this list, you noticed that there was a letter attached to the list, did you not?

A. I never saw the letter.

Q. You say that the first few names on the list were Kelly Hammond and a few of those?

A. The best I recall there were.

Mr. Painter: I will offer this in evidence—I offer this for identification as Respondent's Exhibit next in order.

(Thereupon, the document above referred to was marked as Respondent Boswell Company's Exhibit No. 8 for identification.)

(Testimony of Walter Winslow.)

Q. (By Mr. Painter) Now, Mr. Winslow, I want you to look at Respondent's Exhibit 8 for identification and look it over, and see if that is the list you had in mind?

A. (Interrupting) I can't read.

Q. You can't read? A. No.

Q. Is that your signature? A. That is.

Q. You see this other list, this other column here?

Mr. Mouritsen: Indicating which column?

Mr. Painter: The column on the left-hand side of the page.

The Witness: I don't know what it means, though. [1092]

Q. (By Mr. Painter) As a matter of fact, you realized that this was a preference you were indicating, did you not?

Mr. Mouritsen: May the witness be questioned as to whether he understands the word "preference?"

Trial Examiner Lindsay: Yes.

Do you know what the word "preference" means?

The Witness: No, I don't know that.

Trial Examiner Lindsay: If you have two particular suits of clothes that were being shown to you, and you liked one better than the other, and this is the one you like, that would be your preference. Does that clear it up?

The Witness: Yes.

Q. (By Mr. Painter) You understand, Mr. Winslow, that you were being asked to sign either

(Testimony of Walter Winslow.)

to work eight or twelve hours, isn't that correct?

A. Well, I figured if I didn't sign twelve hours I would have no job.

Mr. Painter: I move that the answer go out as not responsive.

Trial Examiner Lindsay: Yes.

Mr. Painter: Would you read—may I have the question read again, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.) [1093]

The Witness: Yes, I was asked which I wanted to sign.

Q. (By Mr. Painter) Can you read the signatures of the other men at the head of the list?

A. No.

Q. You can't read the signatures of any of the men on the list except yours?

A. No.

Trial Examiner Lindsay: Well—(pause).

Mr. Clark: The answer is yes, I take it, Mr. Examiner.

Trial Examiner Lindsay: I imagine so.

Do you mean by that that you cannot read any of the other signatures except your own?

The Witness: That is what I mean.

Q. (By Mr. Painter) Then when you saw this list, you did not know whose name was on the head of the list, did you?

A. Nolan Butcher was standing by me. We

(Testimony of Walter Winslow.)

both signed at the same time. He signed it twelve hours, and I signed it twelve hours.

Q. Now, will you answer——

A. (Interrupting): He says—he called off two or three of the guys' names that was on there. I understood him that those three guys' names on there, the first ones that were signed.

Q. But you, yourself, when looking at the list, did not know whose names were on there at the head of the list, did you? A. No. [1094]

Q. You didn't know whose names were ahead of your name on the list, did you?

A. The best I recall, there wasn't over three or four or five names; the best I recall it. [1095]

Q. Well, let us count them. You can count down to your signature, can you not?

A. Yes. (Examining document) There were 7 before my name was signed.

Q. Seven on the second page, you mean, do you not? Did you count these on the first page?

A. Well, I never saw no first page.

Q. I see.

Now, as a matter of fact, Mr. Winslow, you knew, did you not—I will withdraw the question.

You were being paid by the hour, weren't you?

A. May I have that question again?

(The record referred to was read by the reporter, as set forth above.)

The Witness: I was.

Q. (By Mr. Painter) And if you worked 8

(Testimony of Walter Winslow.)

hours you would make less money than if you worked 12 hours, isn't that correct?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial; self-evident.

Trial Examiner Lindsay: Sustained.

Mr. Painter: I will offer this letter in evidence at this time, your Honor.

Trial Examiner Lindsay: May I see it?

(The document referred to was passed to the Trial Examiner.) [1096]

Mr. Mouritsen: To which offer I object, Mr. Examiner, on the ground it is incompetent, irrelevant and immaterial; does not tend to prove any of the issues in the case, and is not sufficiently identified. Suppose it were, what bearing would any possible proof would such document have upon the issues in this case as to whether or not the respondent is guilty of unfair labor practices?

Mr. Painter: Your Honor, there have been complaints here about the hours that this mill was operating, we feel that this is naturally relevant to the issues that have been brought up by the Board.

Trial Examiner Lindsay: Well, I will reserve the ruling on it. You may identify it further.

Q. (By Mr. Painter) Mr. Winslow, this is the list that you signed, is it not?

A. That one page is.

Q. The second page at least? Very well.

A. That is all I recall noticing.

Q. Mr. Winslow, at the time that you were laid

(Testimony of Walter Winslow.)

off in November, the mill actually closed, did it not? A. As far as I know, it did.

Q. And there were a good many men working in that mill that you had never seen at a union meeting, isn't that correct? A. Yes.

Q. And those men were laid off also, weren't they? [1097] A. For a short time.

Q. They were laid off at the same time you were, isn't that correct? A. Two or three of them.

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Painter: I will submit, your Honor.

Trial Examiner Lindsay: He may answer if he knows.

The Witness: Three of the guys working there with me were laid off the same day.

Q. (By Mr. Painter) And those three men were men that didn't belong to your union, isn't that correct?

A. Well, if they did, I didn't know it.

Mr. Clark: May I have that answer, your Honor?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Mr. Painter: That is all.

Mr. Mouritsen: Nothing further.

(Witness excused.)

Mr. Mouritsen: Call George Andrade.

E. J. ANDRADE

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows. [1098]

Direct Examination

Q. (By Mr. Mouritsen) What is your name?

A. E. J. Andrade, but I am known at the plant as George Andrade.

Q. When you first went to work for the company, what did you tell them your name was?

A. I told them my real name, E. J. Andrade.

Q. What is your first name?

A. It is pronounced Epifanio, E-p-i-f-a-n-i-o. It is kind of a hard name to remember.

Q. Now at that time did you have any conversation with Tom or Joe or Gordon Hammond regarding your name?

A. Well, I believe there was a conversation.

Q. And what did they say to you or what did you say to them about your name?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial; hearsay and not binding on these respondents.

Trial Examiner Lindsay: He may answer.

The Witness: I believe I wrote my name on a slip of paper and Mr. Gordon Hammond looked at it. He tried to pronounce it and couldn't and said something about from there on my name would be George, or something to that effect.

Q. (By Mr. Mouritsen) Then after that time

(Testimony of E. J. Andrade.)

did you receive your paychecks as George Andrade.

A. Yes, sir. [1099]

Q. And did you sign any company documents as George Andrade from that time on?

A. Yes.

Q. You endorsed the checks as George Andrade, is that correct? A. Yes.

Q. Now, when did you first start to work for the J. G. Boswell Company?

A. In 1933, September.

Q. What type of work did you start to do?

A. I was sewing cotton plant seed.

Q. What rate of pay did you receive at that time? A. 30 cents an hour.

Q. What hours? A. 12 hours.

Q. How long did you work for the company on that occasion?

A. Approximately about 4 months—I mean 4 weeks.

Q. And after that time, after the 4-week period, did you again work for the company?

A. Yes, I did.

Q. Beginning on or about what time?

A. On or about September of '34.

Q. What did you do on that occasion?

A. I was a gin helper.

Q. How long did you continue to work as a gin helper? [1100]

A. Until the latter part of December.

Q. Of what year? A. Of '34.

(Testimony of E. J. Andrade.)

Q. And have you worked for the company since that time, 1934? A. Yes.

Q. In general, what periods have you worked?

A. Well, I worked when the gins or the mill operated.

Q. And you were laid off in between those periods, is that correct? A. Yes. [1101]

Q. Now, during the year 1938, did you have any lay-offs? A. I did.

Q. When was your final lay-off during the year 1938? A. In November 18th.

Q. Now, prior to that time, when was your last lay-off?

A. Right after the mill closed down at approximately about the latter part of September.

Q. What type—before the mill shut down in the latter part of September, what type of work had you been doing? A. I was sewing sacks.

Q. In what part of the plant is that done?

A. In the oil mill.

Q. After the mill shut down in the latter part of September, 1938, when did you return next to work?

A. I believe it was on or about October 6th.

Q. And the year? A. 1938.

Q. And what type of work did you do—what type of work did you do when you returned in October of 1938?

A. I was clean-up man at the gins.

Q. And what were you then receiving per hour?

A. 40 cents.

(Testimony of E. J. Andrade.)

Q. What hours per day were you working?

A. I was working twelve hours.

Q. During the course of your employment with the J. G. Boswell [1102] Company did you become a member of any labor organization? A. I did.

Q. Of what organization?

A. The A. F. of L.

Q. Did you become a member of any Local of the A. F. of L.?

A. The Cotton Products and Grain Mill Workers' Union.

Q. What number? A. 21798.

Q. On what date did you become a member of the organization? A. September 2nd.

Q. What did you do on that date that indicated that you became a member?

A. I signed an application blank.

Q. And after that time, were you subsequently initiated into the Union? A. I was.

Q. Do you recall the approximate date on which that occurred? A. November 16th.

Q. What year? A. 1938.

Q. During the course of your employment with the J. G. Boswell Company, did you ever have any conversation with Joe Hammond regarding the Union? A. I did.

Q. Do you recall when that conversation occurred? [1103]

A. That was on or about July 15th.

Q. Of what year? A. 1938.

(Testimony of E. J. Andrade.)

Q. Where did the conversation take place?

A. In the warehouse by where I sewed sacks.

Q. Was anyone else present?

A. Not within hearing distance.

Q. Will you state what Mr. Joe Hammond said to you on that occasion, and what you said to Joe Hammond?

Mr. Painter: Objected to as hearsay and not binding on the Respondents, and no authority shown on behalf of Joe Hammond to speak for these Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: Joe Hammond asked me what I thought about the Union.

Q. (By Mr. Mouritsen) What was that first name? A. Joe Hammond.

Q. Continue.

A. I told him it was only for the working people. And he said that the Company was not going to have a Union there, that they would never recognize a Union, and if a Union was to come in, they would shut the mill down; and further told me if they shut the mill down, would the Union feed me, or something to that effect.

Q. Do you recall anything further of that conversation? [1104] A. Not at the present.

Q. During the course of your employment with the Boswell Company, did you ever have a conversation regarding the Union with Bill Robinson?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

(Testimony of E. J. Andrade.)

Trial Examiner Lindsay: He may answer.

The Witness: I did.

Q. (By Mr. Mouritsen): Do you recall the approximate date when you had such conversation?

A. About October 15th.

Q. Of what year? A. 1938.

Q. Where did the conversation take place?

A. In the cotton seed house.

Q. Was anyone else present other than yourself and Bill Robinson?

A. Not within hearing distance.

Q. Will you state what Bill Robinson said to you on that occasion, and what you said to Bill Robinson?

Mr. Painter: Objected to as hearsay, and no authority shown on behalf of Bill Robinson to speak for the Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: He asked me if I belonged to a Union, and I told him I did, I had belonged to it for some time. And [1105] he said from the appearance he had of other Unions, that a union wouldn't help the plant any and if you wanted to join a Union, to go where a Union was already established.

Q. (By Mr. Mouritsen): Do you recall any further conversation at that time?

A. No, I don't.

Q. I believe you stated that you last worked for the J. G. Boswell Company on November 18th, 1938; is that correct? A. Yes.

(Testimony of E. J. Andrade.)

Q. Did you work the entire day on that occasion?

A. No, I didn't.

Q. About how long—how many hours during that day did you work?

A. Approximately about four.

Q. Did anything then occur that caused you to cease working for the Company? A. It did.

Q. Will you state what occurred on that occasion that caused you to cease working for the Company?

A. About 10:00 o'clock Bill Robinson walked by where I was working——

Mr. Painter (Interrupting): Just a moment, your Honor. If this is going to call for a conversation, I object to it as hearsay and not binding on the Respondents.

Trial Examiner Lindsay: He may answer. [1106]

The Witness: About 10:00 o'clock Bill Robinson walked by where I was working and he told me they was going to have a meeting to see if they were going to have a union at the plant. [1107]

Q. (By Mr. Mouritsen): Did you attend a meeting? A. I did.

Q. Approximately how long after that conversation? A. Not longer than 5 or 10 minutes.

Q. Where was such a meeting held?

A. On the west side of No. 2 gin, between No. 2 gin and the warehouse.

Q. Did you go to the gin from your place of work?

(Testimony of E. J. Andrade.)

A. It was close by where I was working.

Q. Will you state what you observed and heard when you first went to this meeting?

Mr. Painter: Objected to as calling for hearsay and statements which couldn't possibly bind these respondents.

Trial Examiner Lindsay: He may answer.

The Witness: Well, as the crowd gathered there, somebody asked for—wanted to know what about the union.

Q. (By Mr. Mouritsen): Do you recall who that was?

A. No, I don't. It was just heard from the crowd. And somebody asked for the president.

Q. Do you recall who did that?

A. I believe it was Jack Ely.

Q. Continue.

Trial Examiner Lindsay: Excuse me a moment.

(Here followed discussion off the record.)

Trial Examiner Lindsay: On the record. [1108]

The Witness: What was the question?

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: The original question was for you to state what you observed and heard while you attended this meeting; and your objection—I will stipulate that your objection may apply to the re-statement of the question.

Trial Examiner Lindsay: All right.

The Witness: I believe that after Jack Ely asked

(Testimony of E. J. Andrade.)

for the president somebody—Farr said that Mr. Spear was president. And then the crowd gathered around Lonnie Spear, and somebody asked him, “What about the union?”

And he tried to answer a few questions, but they kept asking him three or four questions at a time, and finally somebody in the crowd hollered, “Let’s throw them out. What are they waiting for?”

Q. (By Mr. Mouritsen): Do you recall who said that? A. No, I don’t.

Q. Now, continue.

A. At that time, why, there was three men closed in on Lonnie Spear, and they grabbed him and started away with him; and as they started by where I was standing I started for them, and at that time Herman Langford came up.

Q. Who is Herman Langford?

A. An employee of the J. G. Boswell Company. [1109-1110]

Q. He was an employee at that time, is that correct? A. Yes.

Q. Now, state what took place?

A. There was a little scuffle there and finally we walked into the office building, and while we were there——

Q. (Interrupting): Well, you say you walked into the office building. Whose office was that? Do you recall? A. Mr. Gordon Hammond’s.

Q. Is that across the road from the place where the original meeting took place?

(Testimony of E. J. Andrade.)

A. Yes, it is.

Q. Will you state what you saw and observed and heard while you were in Louie T. Robinson's office? [1111]

A. We were in Gordon Hammond's office.

Q. Gordon Hammond's office?

Mr. Painter: I object to any answer which calls for a time when Mr. Robinson was not there, as calling for hearsay and not binding on these Respondents.

Trial Examiner Lindsay: You may answer.

The Witness: He had been in Mr. Gordon Hammond's office approximately about ten minutes when Mr. Robinson came to the door and he said something about going back to work, that he would be out there and straighten the matter out.

Q. (By Mr. Mouritsen): Now, was Mr. Spear present in Gordon Hammond's office while you were there? A. Yes, he was.

Q. And were the three men who had taken him to that place also present?

A. They were right outside of the door.

Q. Did you observe what they did when Mr. Louis T. Robinson told them to go back to work?

A. Yes.

Q. What did they do?

A. They left the building.

Q. What did the—strike that.

Were there a number of other employees of the Company present in the office and in the hall adjoining the office? A. There were. [1112]

(Testimony of E. J. Andrade.)

Q. Did you observe what those employees did when Louis T. Robinson told them to go back to work? A. Yes.

Q. What did they do?

A. They left the building.

Q. At that time when Louis T. Robinson said to go back to work, what did you do?

A. I went back where I was working.

Q. And what did you do after you went back to—to work, what did you do?

A. The machinery started, and I sewed two sacks of cotton seed.

Q. What then occurred?

A. The machine stopped.

Q. And what did you then do?

A. I went into the building of the gin.

Q. What did you do after you went into the building?

A. I went into the building and saw Kelly Hammond and Burdine standing beside the main switch which runs Number 2 gin.

Q. Did you hear any conversation or statement at that time? A. No.

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

The Witness: I didn't, your Honor.

Trial Examiner Lindsay: Just a moment. Strike the ans- [1113] wer for the time being.

He may answer. Don't answer until I have ruled when an objection is made.

(Testimony of E. J. Andrade.)

Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: No, I didn't.

Q. (By Mr. Mouritsen): Did anything occur to you—did anything occur at that time that caused you to stop working for the Company or to leave the plant? A. Yes.

Q. Will you state what occurred at that time that caused you to leave the plant, or to stop working?

A. Right after I left the gin, I met Mr. Martin on the outside, and about that time Bill Robinson walked up to us.

Q. Did Mr. Robinson say something on that occasion? A. Yes, he did.

Q. Other than yourself and Martin and Robinson, was anyone else present? A. There was.

Q. Who else was present? A. Mr. Wingo.

Q. He was the man who just testified here the other day, is that correct?

A. That is correct. [1114]

Q. And was anyone else present?

A. R. K. Martin.

Q. Now, will you state what was said at that time that caused you to stop working for the Company?

Mr. Painter: Objected to as hearsay, calling for the conclusion of this witness, and not binding on these Respondents, no authorization for any of the parties to speak for the Respondents.

(Testimony of E. J. Andrade.)

Trial Examiner Lindsay: He may answer.

The Witness: Bill Robinson said there wasn't enough Union men to run the gins, and they had to run, and the non-Union boys would not work with us.

At that time Mr. Wingo asked him if that was an order, if he was giving that order as a foreman. And he said, "No," that was just a suggestion to avoid further trouble.

Q. (By Mr. Mouritsen): Do you recall anything further that was said at that time?

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: No, not at that time.

Q. (By Mr. Mouritsen): After that statement was made by Bill Robinson, what did you do?

A. We figured we were through there, so we picked up our things and went to Mr. Farr's residence.

Q. Well, you left the plant at that time? [1115]

A. Yes, we left the plant.

Q. Have you had any employment since November 18th, 1938? A. I have.

Q. Approximately how much money have you earned since that date?

A. Approximately \$60.00.

Q. Are you now employed? A. No.

Q. If the National Labor Relations Board should order your re-instatement with back pay, would you be willing to accept employment with the J. G. Boswell Company?

(Testimony of E. J. Andrade.)

A. I would under certain conditions.

Q. Under what conditions?

A. Recognition of our Union.

Mr. Clark: May I have that answer?

Trial Examiner Lindsay: Yes. Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen): What do you mean by "recognition?"

A. Well, to give us the right to belong to an organization.

Q. In other words, you would be willing to accept re-instatement if you were permitted to retain your membership in the Union here involved; is that correct?

Mr. Clark: I object to that as leading and suggestive, incompetent, irrelevant and immaterial. [1116]

Trial Examiner Lindsay: The answer may stand.

What was the answer?

The Witness: I would.

Mr. Mouritsen: You may inquire. [1117]

Cross-Examination

Q. (By Mr. Clark): Mr. Andrade, what have you been working at since November 18th?

A. I worked in a nursery in Los Angeles.

Q. And for how long, please?

A. Approximately three weeks.

(Testimony of E. J. Andrade.)

Q. And when was that with respect to the 18th of November, 1938?

A. I believe that was some time in April.

Q. Of this year? A. Of this year.

Q. And is that the only effort you have made to get employment?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

You may reframe the question.

Q. (By Mr. Clark): Have you made any effort to get employment aside from that?

A. I have.

Q. Is that here around Corcoran or elsewhere?

A. Elsewhere.

Q. I see.

Have you ever applied for work since November 18th, Mr. [1118] Andrade, at Boswell Company?

A. I haven't.

Q. And why not, please?

A. Because in other years when they needed us, they generally came after us. We were notified when to go back to work.

Q. I see. Earlier in 1938 you were laid off on several occasions, weren't you? A. I was.

Q. In other words, in 1938 you were laid off from the week ending March 17th up until around May 1st, weren't you? A. It is possible.

Q. Well, does that coincide with your recollection?

(Testimony of E. J. Andrade.)

A. I couldn't recall the exact dates.

Q. Was there a period toward the latter part of March of last year, that is 1938, and including the month of April, that you were laid off?

A. It could be possible.

Q. Do you think that is approximately correct?

A. Yes, it could be.

Q. All right. Now, what were you doing immediately prior to your lay-off on that occasion, that is, in the latter part of March of 1938?

A. I don't think I did anything.

Q. No, what were you doing at the Boswell Company?

A. At the Boswell plant? [1119]

Q. Yes.

A. I don't recall whether I was sewing sacks or chasing lint, one of the two things. [1119(A)]

Q. All right.

When you resumed employment there in early May, if that is the approximate date when you did resume employment, did someone come after you to notify you that you had a job?

A. I think so.

Q. Do you remember who that was?

A. I don't recall just now.

Q. Do you have any actual recollection of that incident?

A. I remember the time, but I can't remember who came after me.

Q. I see.

Now, later on then, at the end of the week ending

(Testimony of E. J. Andrade.)

May 19th, that is, in the latter part of May of 1938, after you had worked about three weeks, you were again laid off, weren't you?

A. I can't recall now.

Q. Well, was there a second lay-off during the late spring or early summer of 1938?

A. I believe that the mill did——

Q. (Interrupting): Don't you recollect that you were laid off twice during the spring of 1938?

A. I don't remember.

Q. All right.

Were you—when you resumed employment at the Boswell plant around the 1st of May, 1938, that is, after your first [1120] lay-off, what job did they give you?

A. I believe I started working in the lint room.

Q. I see.

And for how long, if you remember, just roughly, did you continue working in the lint room before you were again laid off? A. I don't recall.

Q. Wasn't it about three weeks?

A. I could have been.

Q. All right.

Now, did you then resume your employment at the Boswell Company around the 1st of July of last year? A. Yes.

Q. And on that occasion do you remember whether you went to the plant and asked for work or whether they sent someone out for you?

A. I believe that I went to the plant that time.

Q. I see.

(Testimony of E. J. Andrade.)

And who did you see there at the plant about getting a job?

A. I don't remember exactly.

Q. Was it Gordon Hammond?

A. I don't believe so.

Q. Did you get a job on that occasion?

A. I did. [1121]

Q. And what were you put doing at that time?

A. I was chasing lint.

Q. Chasing lint again? A. Yes.

Q. Now, am I correct in stating, Mr. Andrade—withdraw that.

Am I correct in stating that on the occasion of this employment which commenced around July 1st of 1938 you worked up until around the 1st of October or the last of September?

A. The last of September.

Q. The last of September.

And then were you again laid off? A. I was.

Q. Now, during that period, namely from about July 1st to the last of September were you employed at chasing lint all the time? A. No.

Q. Will you please tell us what jobs and what different things you did at the Boswell plant during that 3-month period?

A. I chased lint for just a little over a week and was then put to sewing sacks.

Q. Yes?

A. In the mill; and I sewed sacks for the remainder of the period. [1122]

(Testimony of E. J. Andrade.)

Q. All right.

Now, I think you told us on your direct examination that when you first started to work as Boswell's, you were paid 30 cents an hour?

A. That is correct.

Q. And somewhere along the line you were raised to 40 cents, is that right? A. That is right.

Q. Now, when you were re-employed around the first of July last year, was your wage 40 cents an hour? A. 35.

Q. 35.

And when was it, if ever, since that period of time; namely, from July 1st to the last of September that you were raised to 40 cents?

A. When I took the sack sewing job over.

Q. All right.

In other words, when you changed from chasing lint to sewing sacks, which I think you said was after the first two weeks of that re-employment—

A. (Interrupting): Some time during the first two weeks.

Q. All right. Then you were given the 40-cent scale; is that right? A. That is correct.

Q. Now, how long was it after your lay-off on that occasion, [1123] namely, the last of September of 1938, that you were again employed?

A. Some time about the 5th or 6th of October.

Q. And on that occasion, Mr. Andrade, did someone come out for you or did you apply for work at the plant?

(Testimony of E. J. Andrade.)

A. Well, I applied for work the day before, and, as near as I can recall, there wasn't anything to do.

Q. Yes.

A. And on the following day Tommy Hammond drove up to my home at noon and asked me to come to work.

Q. I see.

When you say "the day before," in fixing the time when you applied for work, you mean the day before the day when you actually did go back to work, is that right?

A. The day before I actually went to work.

Q. All right.

On that occasion you had, of your own volition, gone to the plant and applied? A. Yes, I did.

Q. All right.

Now, what were you put doing upon the occasion of that re-employment?

A. I was clean-up man in the gin.

Q. And for how long did you continue at that job, please?

A. Oh, there was no specific time on that. I just would [1124] clean up the gins at certain times——

Q. (Interrupting): I mean, over what periods of weeks?

A. Over what period? I couldn't recall that.

Q. Well, were you—did you continue to be clean-up man in the gins from early October when you were re-employed on the occasion just referred to, clear up to November 18th? A. No.

(Testimony of E. J. Andrade.)

Q. All right.

Now, can you fix for us the approximate time that you continued at that job before there was any change in your occupation?

A. Well, you see, the clean-up of the gins did not take all my entire time.

Q. I see.

What else did you do, please?

A. I unloaded the cotton and just helped out wherever there was anything to be done.

Q. In other words, did you do odd jobs around the plant? A. I did.

Q. Is that a fair description of it?

A. Yes, that would be fair enough.

Q. For how long did you continue at that during this last period of re-employment, namely, from early October up until November 18th?

A. Up until the 18th. [1125]

Q. Up' until the 18th? A. Yes.

Q. I see.

Now, upon that occasion, Mr. Andrade, commencing in early October of '38, what rate of pay did you receive? A. 40 cents.

Q. I see.

In other words, you simply continued at the 40-cent scale on which you had been put in July the time you went to the sack sewing job?

Mr. Mouritsen: Objected to as——

Mr. Clark (Interrupting): I am summing it up. May I have the answer?

(Testimony of E. J. Andrade.)

The Witness: That is correct.

Mr. Clark: May we have a recess at this time, Mr. Examiner? It is 11:00 o'clock.

Trial Examiner Lindsay: Yes. A 10-minute.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

[1126]

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Shall I proceed, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark): Now, Mr. Andrade, when was it that you signed your application to join this Union?

A. I believe it was on September 2nd.

Q. Of 1938? A. 1938.

Q. When was it, if you know—withdraw that.

Did you ever talk to Mr. Gordon Hammond about having joined the Union?

A. Not that I can recall.

Q. Did you ever talk to Mr. Louie Robinson about your having joined the Union?

A. I don't think so.

Q. After September 2nd, did you solicit certain of the employees at Boswell's to join this Union?

A. I did.

Q. And did you obtain signed applications from them? A. I did.

Q. Amongst those employees whom you solicited

(Testimony of E. J. Andrade.)

and signed up, if we can use that term, was there a Mr. Ignacio Galvan? A. There was.

Q. And was there also a Mr. A. Galvan?

A. There was. [1127]

Q. And Lawrence Galvan? A. No.

Q. Pete Galvan? A. No.

Q. Manuel Escabedo? A. No.

Q. Do you know whether or not any of these whom I have just named and which you answered No did, in fact, become members of the Union?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: Well, I think it is entirely material, Mr. Examiner, upon the question of the claimed discrimination on the part of this employer against persons who joined this Union; preliminary to showing that these men are employed right now and have been all the time.

Trial Examiner Lindsay: May I have that question?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: If he hasn't the question in mind, I will reframe it very easily.

Trial Examiner Lindsay: Yes. Sustained.

Mr. Clark: On the ground of materiality, Mr. Examiner?

Trial Examiner Lindsay: You may proceed, Mr. Clark.

Mr. Clark: Very well.

Q. Let me ask you then, Mr. Andrade, whether

(Testimony of E. J. Andrade.)

or not Pete [1128] Galvan ever, in fact, did become a member of your Union?

A. I believe he signed application.

Q. Yes.

And how about Manuel Escabedo?

A. The same refers to him.

Q. How about A. Galvan?

A. I signed him.

Q. How about Lawrence Galvan?

A. I believe he signed application.

Q. You think he signed an application, too?

A. Yes.

Q. Now, did you succeed in getting any other employees in Boswell's to sign applications beyond those you have named for us? A. No.

Q. All right.

Now, you didn't make any secret of your activities in that regard after September 2nd, did you?

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I will withdraw that.

Q. Did you approach these men during working hours at the plant? A. I did.

Q. And you didn't ask them not to tell anybody that you were signing them up, did you? [1129]

A. No.

Q. In other words, you simply looked on that as one of your rights, is that right? A. Right.

Mr. Mouritsen: Objected to as immaterial.

Q. (By Mr. Clark): Now, directing your atten-

(Testimony of E. J. Andrade.)

tion to the first week in October, 1938, and to the time that you were laid off for a few days in there, did you hear that Mr. Prior had a conversation with Mr. Gordon Hammond concerning your re-employment? A. I did.

Q. And do you know whether or not such a conversation in fact took place? Withdraw that.

Did Mr. Prior report to you the result of that conversation? A. Yes.

Q. Now, what did he say in that regard?

A. The only thing that he told me, as best I remember, was to apply for a job with Mr. Gordon Hammond.

Q. I see.

Well, did Mr. Prior in effect tell you, Mr. Andrade, that he had informed Gordon Hammond that you were a Union member? A. I think he did.

Q. So that as early as the first part of October, 1938, Mr. Gordon Hammond did know that you had joined the Union, didn't [1130] he?

A. To the best of my knowledge, he did.

Q. You never at any time made any secret of your membership?

Mr. Mouritsen: Objected to as vague and indefinite.

Q. (By Mr. Clark): Well, you never at any time tried to keep the fact that you had joined the Union from becoming known to the Company or other employees, did you? A. That is right.

Q. In other words, you didn't try to keep it from becoming known? A. That is right.

(Testimony of E. J. Andrade.)

Q. All right.

Now, I understand, Mr. Andrade, that you never had any talk yourself with either Mr. Gordon Hammond or Mr. Louie Robinson with respect to your having joined this Union? A. No, I didn't.

Q. Let me direct your attention to a meeting or a conversation which took place in the middle of January, 1939, the date established in this record being January 17th, at which Mr. Louie Robinson was present and I believe you were present, and the last witness, Mr. Winslow, was present, and also an investigator from the National Labor Relations Board.

Do you remember——

A. (Interrupting): I do.

Q. (Continuing): ——that occasion? [1131]

Do you remember that Mr. Lonnie Spear was also present at that time? A. I do.

Q. And am I correct in stating that at that conversation, Mr. Spear gave his version of what had happened on the morning of November 18th?

A. Right.

Q. Now, did you hear any conversation at that time between Mr. Louie Robinson and Walter Winslow? A. I did.

Q. Just a minute—regarding Walter Winslow having taken orders from Tommy Hammond?

A. I did.

Q. All right.

Now, will you please tell us what that conversa-

(Testimony of E. J. Andrade.)

tion was, as nearly as you can recollect it, just the substance of it, don't you see?

A. Yes, sir.

Well, I believe Mr. Louie Robinson asked him if Mr. Tom Hammond gave him an order that he knew was wrong would he carry it out, and Mr. Winslow answered that he would.

Q. Now, may I interrupt you there a minute.

Do you remember how that conversation or those remarks between Mr. Louie Robinson and Walter Winslow came about? Do you remember what the subject was they were discussing? [1132]

A. I believe Mr. Maurice—or whatever his name is—

Q. (Interrupting): You mean Mr. Howard?

A. Howard, rather, made some remark about the men obeying orders from Mr. Tom Hammond.

Q. I see.

A. And then Mr. Louie Robinson made the remark to Mr. Winslow, and Mr. Winslow answered him.

Q. Now, let me have that remark again, if you will?

A. I think he asked him if Mr. Tom Hammond gave him an order that he knew was wrong, would he go ahead and carry it out. [1133].

Q. Yes?

A. And Mr. Winslow said that he would.

Q. Was there any further conversation on that subject?

A. I believe Mr. Winslow stated that on other

(Testimony of E. J. Andrade.)

occasions when he disobeyed an order Mr. Gordon Hammond told him that if he wanted to continue working there, he would have to obey the orders of his foremen.

Q. Were any further statements made by Mr. Louie Robinson in that connection?

A. I think he said something, he couldn't use him any more, or wouldn't hire him any more, something to that effect.

Q. Did he say why he wouldn't hire him any more? A. No, he didn't.

Q. Well, did you understand that it was in connection with Mr. Winslow's answer to the first question having to do with the wrong order?

Mr. Mouritsen: I object to the question——

Mr. Clark (Interrupting): I will withdraw it.

Q. During that conversation, Mr. Andrade, did Mr. Louie Robinson in response to any statement made about Tommy Hammond's authority, deny that he had the right to interfere with your men, with you men joining the union?

Mr. Mouritsen: May I have that question read? It is not very clear to me, Mr. Examiner.

Mr. Clark: Let us have it read, then. [1134]

Trial Examiner Lindsay: Yes. Read it, please.

(The record referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I object to that as very vague and indefinite and confusing.

Mr. Clark: I will submit it. If the witness understands, I think I am entitled to an answer.

(Testimony of E. J. Andrade.)

Trial Examiner Lindsay: Do you fully understand it?

The Witness: No.

Mr. Clark: Very well. I will reframe it.

Q. During that conversation did Mr. Louie Robinson say anything about the right of any of you men to join the union if you wanted to?

A. Not that I recall.

Q. Did he say anything about Mr. Tommy Hammond having authority to tell you not to or to tell you that the company was not in favor of your doing it?

A. I don't believe he mentioned that, to my best recollection.

Q. What did you understand that this exchange of remarks between Mr. Walter Winslow and Mr. Louie Robinson was about?

A. Well, to the best of my knowledge, it was just about the subject they were talking about.

Q. Wasn't it about Mr. Tommy Hammond's authority? Isn't that the way you understood it? [1135]

A. No, not to me.

Q. Well, will you give us, as best you can remember, your understanding of what that conversation was about, what it meant to you?

A. Well, I think—if I understood it clearly—Tommy Hammond was recognized as a foreman and, therefore, any orders he gave you were to be carried out.

Q. Well, is that what you understood Mr. Louie

(Testimony of E. J. Andrade.)

Robinson to be saying when he asked Walter Winslow whether he would carry out an order by Tommy Hammond that he knew to be wrong?

Mr. Mouritsen: I object to that as very vague.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

Mr. Clark: May I have the question read back?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I sustained the objection to the question so you don't answer.

Mr. Clark: Very well.

Q. Is that what you understood Mr. Louie Robinson to mean when he asked Walter Winslow if he, Winslow, would carry out an order by Tommy Hammond that he knew to be wrong?

Mr. Mouritsen: I object to that also as vague and con- [1136] fusing.

Trial Examiner Lindsay: Sustained.

Mr. Clark: May I have some indication from the bench, your Honor, as to what you consider to be the defect in the question?

Trial Examiner Lindsay: Now you may proceed and examine this witness. I have sustained the objection to the question, Mr. Attorney.

Mr. Clark: May I ask what the ground is?

Trial Examiner Lindsay: You will proceed with your examination.

Mr. Clark: Very well.

(Testimony of E. J. Andrade.)

Q. During that conversation, Mr. Andrade, did you hear Mr. Howard, the investigator for the National Labor Relations Board, make any remark about a gun? A. I did.

Q. Will you please let us have that?

Mr. Mouritsen: This is objected to as incompetent, irrelevant and immaterial; and doesn't tend to prove or disprove the issues in the matter.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Will you please state whether or not during this conversation, Mr. Howard, the investigator for the National Labor Relations Board, stated, in substance or [1137] effect, to the persons present, that in his opinion Mr. Lonnie Spear would have had a perfect right to shoot the people who had laid hold of him on the morning of the 18th?

Mr. Mouritsen: It that question finished?

Mr. Clark: Yes.

Mr. Mouritsen: I object to it upon the ground it is incompetent, irrelevant and immaterial——

Mr. Clark (Interrupting): Submit it.

Mr. Mouritsen (Continuing): ——not tending to prove or disprove the issues.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Were you present at any time when Mr. Howard——withdraw that.

Did Mr. Howard ever to your knowledge attempt to solicit applications for membership in your union

(Testimony of E. J. Andrade.)

among the Boswell employees while he was here on that occasion?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Let me direct your attention, Mr. Andrade, to the events immediately after November 18, 1938, and I will ask you particularly whether you were present at a meeting at the main office of the company on the following morning, that is November 19th? [1138] A. I wasn't.

Q. I see. Now, were you ever present at any meeting between the members of your union and anyone representing the company, that is, Boswell's, after November 19th, except the one on January 17th that we have been talking about? A. No.

Q. I take it then that you were not present at any meeting on November 28th between Mr. Prior and Mr. Louie Robinson? A. I wasn't.

Q. Did Mr. Prior ever make any report to you of a meeting which he had with Mr. Louie Robinson on or about November 28th of 1938 at which the subject of the re-employment of the members of the union was discussed? A. I believe he did.

Q. And in making that report to you, Mr. Andrade, did Mr. Prior tell you that Mr. Robinson had asked him for a list of the men who were members of the union, for the purpose of employing them? A. I don't recall that.

(Testimony of E. J. Andrade.)

Q. Did Mr. Prior, in making that report to you, tell you that Mr. Robinson had stated during that conversation that he could use Lonnie Spear from time to time? A. I think he did. [1139]

Q. And did Mr. Prior then state to you in making the report that we are talking about, that he then mentioned the name of Mr. Martin to Mr. Robinson? A. I think he did.

Q. And that Mr. Robinson had told him that Mr. Martin's gin was not operating and, therefore, the Company could not re-employ Mr. Martin at that time?

A. I don't think he said that just that way.

Q. How did he say that, please?

A. I believe the nearest Mr. Prior's statement was when he mentioned Mr. Martin's name, Mr. Robinson laid his pencil or pen or whatever he was writing with, down, and they spoke to him about the rest of the members.

Q. What did Mr. Prior say to you that Mr. Robinson said about the rest of them?

A. I don't recall.

Q. And did Mr. Prior tell you what he, Prior, said to Mr. Robinson regarding Martin?

A. I think he didn't say anything about Martin, but he said that if Martin and some of the others were not put to work, they were just wasting each other's time, or something to that effect.

Q. All right.

Now, was that report made to you by Mr. Prior in a Union meeting? [1140]

(Testimony of E. J. Andrade.)

A. No, just a gathering.

Q. All right. And did you authorize Mr. Prior to make that statement to Mr. Robinson on your behalf?

A. I think we had a gathering there in the morning, and Mr. Farr and Mr. Martin and Mr. Spear decided that—well, after the gathering was there, they were asked to go up there and have a talk with the representative of the Boswell Company and see if they could come to some agreement.

Q. Yes.

That was, you think, about the morning of November 28th?

A. Something around that date.

Q. And as far as you understand, this committee you have named went up to talk to the representative of the company, is that right?

A. That is right.

Q. Then after they had—then, some time subsequently or afterwards, Mr. Prior made the report you have been telling us about, is that correct?

A. Yes, sir.

Q. Now, the thing I am asking you about is this about hearing that report, Mr. Andrade: Did you personally subscribe to it?

A. No, I didn't. What was that?

Mr. Clark: I withdraw the question.

Q. Did you agree to what Mr. Prior had said? [1141]

Was that all right with you?

(Testimony of E. J. Andrade.)

A. I don't get the meaning of that question.

Q. When Mr. Prior reported to you what he had done at the meeting with the Company representative, did that meet with your approval?

A. I still don't get what you mean.

Q. Well, I understood that after this committee went up to see the Company representatives, Mr. Prior came back and in a gathering of the Union members, made a report of what had happened; is that right?

A. Yes, he did.

Q. All right.

And in that report he stated these things about Martin, and in particular that unless Martin and some of the others were taken back, it wasn't any use to talk about settlement, isn't that right?

A. They didn't get to talk about any of the others.

Q. Did you ever find out why they didn't get to talk about any of the others?

A. No, I didn't.

Q. Did you ask Mr. Prior why they didn't talk about yourself, for instance?

A. No, I didn't.

Q. Well, wasn't that of interest to you?

A. It was. [1142]

Q. Why didn't you make some inquiry about it of him?

A. I didn't think about it at the time.

Q. I see.

The thing I want to know is this: Was Mr. Prior

(Testimony of E. J. Andrade.)

representing you up there at the Company plant that morning?

A. He was representing the whole group, not only one.

Q. I understand that. But so far as you personally were concerned, you approved his going there for you, didn't you? A. Yes.

Q. And when he came back and told you what had happened, were you satisfied with that?

A. No, I wasn't.

Q. Well, in what respects weren't you satisfied?

A. Well, they didn't accomplish anything.

Q. Well, did you approve of the way Mr. Prior had handled it?

A. I don't think Mr. Prior was at fault.

Q. I see.

But I am talking about how you felt right then, Mr. Andrade?

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Did you say to Mr. Prior in substance or effect at that time, Mr. Andrade, "Well, was my name mentioned?"

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I will submit it. [1143]

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Did you make any inquiry of Mr. Prior on that occasion concerning whether or not you had been offered a job?

(Testimony of E. J. Andrade.)

A. I didn't.

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: He has answered it again.

Q. (By Mr. Clark) At any rate, you didn't go back to the Company on your own and ask them for a job, did you? A. No.

Q. As a matter of fact, didn't you leave that part of the matter to Mr. Prior, that is, the getting you of a job back? A. Not entirely.

Q. Well, you didn't do anything about it yourself, did you? A. No.

Q. And so instead of any personal contact with the Company, you depended on Prior or whatever other Union representatives might be appointed to deal with the Company, isn't that correct?

A. No.

Q. Well, what did you do?

A. I didn't do much of anything.

Q. Well, what do you mean by answering the question "No," then?

A. Well, if the Company had wanted to get together with us, [1144] they could have notified us one way or the other through our representatives, or personally.

Q. Was that the attitude you took, then?

A. Yes.

Q. All right.

On your direct examination, Mr. Andrade, you

(Testimony of E. J. Andrade.)

said that you wouldn't be willing to go back to work at Boswell's if conditions were as they were on November 18th.

Do you recall that statement?

A. Yes, I do.

Q. And I think you explained that by saying that you insisted upon the right—strike that.

I think you explained your statement in that regard by saying that you would insist your Union be recognized, is that true? A. I did.

Q. And did you further state on your direct examination that by that you meant that you would insist upon having the right to belong to this Union?

A. Yes.

Q. Now, will you please tell me whether, at any time whatsoever during the period of your employment at Boswell's, either Mr. Gordon Hammond or Mr. Louie Robinson ever stated to you in substance or effect that you didn't have that right?

A. Not to my knowledge. [1145]

Q. I am correct in stating, am I not, that at all times, so far as the Company was concerned, represented by Mr. Louis Robinson or Mr. Gordon Hammond, there was no interference at all with your joining the Union? A. Not correct.

Q. In what respect is that not correct?

A. I said, not direct.

Q. Not direct? A. Yes.

Mr. Clark: I ask that that go out, may it please the Examiner, and the question be answered and an explanation given if Mr. Andrade has one.

(Testimony of E. J. Andrade.)

May I have the question read?

Trial Examiner Lindsay: You may have it read; and the answer may stand.

Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: Not direct.

Q. (By Mr. Clark) What is the answer?

A. Not direct.

Q. What indirect interference, so far as your understanding is concerned, Mr. Andrade, was there?

A. There was rumors around there that the Union was not wanted at the plant. [1146]

Q. And did those rumors pass from mouth to mouth among the employees? A. Yes.

Q. And isn't it that which you are talking about when you say that there was an indirect interference with your joining the Union?

A. That is right.

Q. All right.

You never heard either Mr. Gordon Hammond or Mr. Louie Robinson say anything at all about that?

A. No.

Q. Now, after November 18th of 1938, you continued to receive your pay for a period of time, didn't you? A. I did.

Q. And am I correct in stating that that was for the weeks ending December 24th—November 24th and December 1st? A. That is right.

(Testimony of E. J. Andrade.)

Q. Two checks, in other words? A. Yes.

Q. Now, you didn't do any work for the amounts covered by those two checks except such time as you worked on November 18th, isn't that right?

A. That is right.

Q. And did you accept and cash the checks?

A. I did. [1147]

Q. Did you ever ask either Mr. Robinson or Mr. Gordon Hammond why you were being paid?

A. No, I didn't.

Q. Did you ever have any conversation with anyone else concerning the reason for your being given these checks? A. Mr. Farr.

Q. What was the answer?

A. I had a conversation about that with Mr. Farr.

Q. All right.

And what did you understand, Mr. Andrade, to be the reason for your being paid these checks?

A. On November 18th, Mr. Farr called Mr. Robinson and right after Mr. Farr made the phone call, he came into his home and told us that Mr. Robinson had said to rest easy, that our pay would go on until this matter was settled; and that was the understanding I had. [1148]

Q. I see.

And so when the time came to collect the checks, did you go to the plant to get them?

A. I did.

(Testimony of E. J. Andrade.)

Q. Let us take the check for the week ending November 24th. Who, if anyone, did you see at the plant when you went to call for the check?

A. I saw Mr. Gordon Hammond.

Q. Did you have a conversation with him at that time? A. No.

Q. Did you ask him for your check?

A. I didn't.

Q. Did he hand it to you?

A. I got it from the clerk that hands them out.

Q. I see.

I understand you to say you saw Mr. Gordon Hammond. A. I did.

Q. But you had no conversation with him?

A. No.

Q. Is that all that happened on the occasion of that visit to the plant? A. Yes.

Q. Now, how about the next week, that is, the week of December 1st? Did you call at the plant, or was the check sent to you? [1149]

A. I called at the plant.

Q. And whom did you see, if anyone, then?

A. The clerk.

Q. And was there any conversation — strike that.

You were simply handed your check then?

A. That is right.

Q. And you went away?

A. That is correct.

Q. Now, had Mr. Prior reported to you the results of the November 28th conversation before you got this last check the December 1st check?

(Testimony of E. J. Andrade.)

A. I think he had. I am not sure.

Q. Do you know whether or not any of the other members of your union or the union, I mean, are still employed at the Boswell plant?

A. I believe there is.

Q. Do you know who they are?

A. Ignacio—his real name is Ignacio; but they call him Nacio, and Andrew Galvan.

Q. How about Manuel Escobade?

A. I am not certain he is working.

Q. Do you know whether he worked there after November 18th?

A. Yes, he worked there after that.

Q. How about Pete Galvan?

A. I believe the same. [1150]

Q. Lawrence Galvan? A. The same.

Q. And how about Joe Briley?

A. I think he has worked for them since.

Q. And he was a member of the union, too, wasn't he? A. I think he was.

Q. And now some of those men you say are not working at the present time, but did work after November 18th, is that right? A. I think they did.

Mr. Clark: That is all.

Redirect Examination

Q. (By Mr. Mouritsen) Now, Mr. Andrade, I believe you stated upon your cross examination that you signed up Nacio Galvan and one other fellow. A. Andrew Galvan.

Q. Andrew Galvan.

(Testimony of E. J. Andrade.)

Do you recall the approximate date when you did that?

A. Let's see. I think it was some time in July.

Mr. Clark: That is 1938, I take it?

The Witness: Wait a minute.

Q. (By Mr. Mouritsen) After that time did Nacio Galvan attend some of the meetings of this union? A. No.

Q. Did you ever have a conversation with him regarding the [1151] reason why he didn't attend the union? A. I did.

Q. Do you recall when that conversation took place?

A. I believe it was some time in October.

Q. Of what year? A. 1938.

Q. And where did the conversation take place?

A. At the Boswell camp.

Q. And was anyone else present other than yourself and Nacio Galvan? A. There was.

Q. Who else?

A. Mr. Prior and Mr. R. K. Martin.

Q. Now, will you state what conversation took place at the time between yourself and Nacio Galvan?

Mr. Clark: Objected to as hearsay; incompetent, irrelevant and immaterial, not binding on any of the respondents in this proceeding, and no authority being shown in Mr. Galvan to speak for the respondent Boswell Company with respect to any matter under investigation here.

(Testimony of E. J. Andrade.)

Trial Examiner Lindsay: He may answer.

The Witness: I asked Mr. Galvan why he didn't attend our meetings, and he answered that he had been told by Mr. Gordon Hammond he would lose his job if he had anything to do with the union. [1152]

Q. (By Mr. Mouritsen) Did you say anything further at that time? A. I did.

Q. What did you say?

A. I asked him if anybody else had said anything to him about the union.

Q. Did he make a reply? A. Yes.

Q. What did he say?

A. He said Tom and Joe Hammond had both warned him to keep away.

Mr. Clark: The same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: He said Tom and Joe Hammond had both warned him to keep away from the union bunch or lose his job.

Q. (By Mr. Mouritsen) Do you recall any further conversation that took place at that time?

A. Not at that time.

Q. Did Andrew—what was the other Galvan fellow's first name? A. Andrew.

Q. Did Andrew Galvan ever attend any union meeting after you had signed him up?

A. No, he didn't. [1153]

Q. Did Manuel Escobade ever attend any union meetings at any time? A. No, he didn't.

(Testimony of E. J. Andrade.)

Q. Did Peter Galvan? A. No.

Q. Did Lawrence Galvan ever attend any union meetings? A. No, he didn't.

Q. Have you since the picketing was established at the plant, have you engaged in picketing the plant? A. I have.

Q. Have you done that on a number of occasions? A. Yes.

Mr. Mouritsen: You may inquire.

Recross Examination

Q. (By Mr. Clark) Did you receive any strike benefits from your union?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: No further questions.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Mouritsen: Call Mr. Boyd Ely.

Mr. McTernan will conduct the examination of this witness, [1154] Mr. Examiner.

BOYD L. ELY

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

(Testimony of Boyd L. Ely.)

Direct Examination

Q. (By Mr. McTernan) Will you state your name, please? A. B. L. Ely.

Q. And your address?

A. Box 52, Corcoran.

Q. Mr. Ely, have you ever been employed by the J. G. Boswell Company? A. I have.

Q. When were you first employed by the company?

A. About July, between the 22nd and 24th.

Q. And what sort of work did you do for the company? A. I worked as a hay cutter.

Q. What was your rate of pay?

A. 30 cents per hour.

Q. How long did that work continue?

A. Well, up until about the latter part of February of 1937, I believe.

Q. And then you were laid off? A. No.

Q. What happened then? [1155]

A. I was transferred from the hay cutter to the mill.

Q. And how long did you work in the mill?

A. Well, up until the latter part of May, I believe.

Mr. Clark: What year, please?

The Witness: '37.

Q. (By Mr. McTernan) And what was your rate of pay during that period?

A. Well, just a short time before I left as a

(Testimony of Boyd L. Ely.)

hay cutter, it was raised to 35 cents an hour.

Q. And then did you leave the employ of the J. G. Boswell Company? A. Yes.

Q. For how long?

A. Well, for about 60 or 70 days.

Q. Were you laid off at the time?

A. Well, no; I was not.

Q. How did you happen to leave then?

A. Well, I had a job in the grain harvest and it looked like there wouldn't be too much work at the time and I seen Mr. Hammond and talked it over with him and told him I had a job I could go to and would give someone else a chance to stay awhile while I was working, if I could make that job for the harvest. And I told—and he told me to go ahead and when I got done to come back and see him.

Q. Did you do that, come back and see him? [1156] A. Yes.

Q. Did you start right to work right after that?

A. Not right at that time.

Q. When did you start back to work for the Boswell Company?

A. I started back to work in September of 1937.

Q. And how long did you work for the company starting that time?

A. Well, about March, on or about March 24th of '38.

Q. And what type of work were you employed at during that period? A. Sack sewing.

(Testimony of Boyd L. Ely.)

Q. And what was your rate of pay?

A. 40 cents an hour, I believe, at that time.

Q. Well, when did you next go back to work for the Boswell Company? A. After——

Trial Examiner Lindsay (Interrupting): Do you understand the question?

The Witness: Not quite.

Q. (By Mr. McTernan) I believe you testified you worked up until March of 1938.

Mr. Clark: March 24th, he said, about.

Trial Examiner Lindsay: Yes, on or about.

Mr. Clark: 1938.

The Witness: Well, about some time in April, the first [1157] part of April, somewhere as I remember.

Q. (By Mr. McTernan) Of the same year?

A. Yes.

Q. And then did you continue working for the Boswell Company?

A. Well, up until about some time in May I was running pumps out in the lake at that time I believe. Then I came back and sewed sacks for a few days as best I remember.

Q. And when was that?

A. That was some time in May of '38.

Q. Then you left the employ of the company?

A. Yes.

Q. And when did you return, if at all?

A. July 1st, 1938.

Q. And did you continue to work after that for any length of time?

(Testimony of Boyd L. Ely.)

A. Up until the latter part of September, '38.

Q. And then did you ever go back again?

A. Yes.

Q. When was that? A. In October.

Q. And how long did you work then?

A. Until around or about November 14th, '38.

Q. And what type of work were you employed at during that period? [1158] A. Sewing sacks.

Q. What was your rate of pay?

A. At that time 45 cents per hour.

Q. Who laid you off on November 14th?

A. Joe Hammond.

Q. Did he make any statement to you concerning your lay-off at that time?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: No, I didn't know anything about the layoff. I wasn't expecting it. I just went down to go to work on the night shift and when I got there they shut down. There was nothing doing.

Q. (By Mr. McTernan) Did you ask him about it? A. I did.

Q. What did he say about that?

Mr. Clark: Objected to as hearsay.

Trial Examiner Lindsay: He may answer.

The Witness: He didn't say much about it. I couldn't get any understanding about it. He turned and walked off.

Mr. Clark: I object to "I couldn't get any

(Testimony of Boyd L. Ely.)

understanding about it" as a conclusion of the witness.

Trial Examiner Lindsay: Yes. He may tell what he did or what was said. It may go out. [1159]

The Witness: I asked him what was wrong and he said he didn't know; and he walked off.

Mr. Clark: May I have the date?

Trial Examiner Lindsay: I believe he testified November 14th, is that right?

The Witness: Yes.

Q. (By Mr. McTernan) Have you ever applied for work since that time to the Boswell Company?

A. No—yes, if I may make the correction.

Q. Did you get any work from them on that occasion? A. No.

Q. Now, Mr. Ely, around July 1938 did you ever have a conversation with any fellow employees of the Boswell plant concerning a union?

A. A little, not very much.

Q. Well, with whom did you have any conversation?

A. A fellow by the name of Butcher and White.

Q. Are they employees of the Boswell Company?

A. Yes.

Q. Was anybody else present at that time?

A. Not at that time.

Q. What did you say to them and what did they say to you?

(Testimony of Boyd L. Ely.)

Mr. Clark: Objected to as hearsay, not binding upon any of the respondents.

Trial Examiner Lindsay: He may answer. [1160]

The Witness: Well, I just made a remark to them I heard there was going to be a union meeting that night, and just—I didn't mean anything by it,—something to talk about, I guess—I made a remark, I believe I would go up that night and join the union. I don't remember just what either one of them said, but that was about all that was said. We just dropped it and went on as we was.

Mr. McTernan: All right.

Q. Did you have any conversation with Mr. Tom Hammond around that time?

A. A little the next morning.

Q. The next morning.

Where was that held?

A. Well, I was just entering the main gate, the gate that goes in by the machine shop at the Boswell plant, a few minutes before 6:00 o'clock before I was to go to work. As I entered the gate——

Mr. Clark (Interrupting) Just a minute. May it please the Examiner, I don't think it is responsive and if this is going to result in a conversation, I want an objection on the ground of hearsay to be in at this time.

Mr. McTernan: I will bring it up to that, then.

Q. Was anyone else present at that time?

A. No.

Q. Now, will you state what you said to Mr. Tom

(Testimony of Boyd L. Ely.)

Hammond and [1161] what Mr. Tom Hammond said to you?

Mr. Clark: Objected to on the ground it calls for hearsay.

Trial Examiner Lindsay: He may answer.

The Witness: Well, Mr. Tom Hammond was just fixing to enter the machine shop. He seen me coming in the gate and turned around and come over to where I was at. He asked me if I joined the union last night. I told him no, I didn't, I didn't even go, didn't have any intention of going.

Q. (By Mr. McTernan) Is that all that he said?

A. Well, he said——

Mr. Clark (Interrupting): Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: He said it was a no good bunch trying to run somebody else's business.

Q. (By Mr. McTernan) Is that all that was said?

A. That is about all that was said at the time.

Q. Now, in October of 1938 did you ever have any conversation with any of your fellow employees of the Boswell plant concerning the union?

A. A short time, yes.

Q. With whom did that conversation take place?

A. Clyde Sitton.

Q. Who is Clyde Sitton?

A. Well, I understand he is a nephew to Gordon Hammond—— [1162]

(Testimony of Boyd L. Ely.)

Mr. Clark (Interrupting): I move, may it please your Honor, that that go out as calling for a conclusion of the witness, what he understood; hearsay.

Trial Examiner Lindsay: It may remain.

Q. (By Mr. McTernan) Was he an employee of the Boswell Company? A. Yes.

Q. Where was this conversation held?

A. In the machine shop of J. G. Boswell Company.

Q. Was anyone else present?

A. Yes. There was several in the building, but none within hearing distance. The machinery was running, too.

Q. Will you state what Mr. Clyde Sitton said to you and what you said to Mr. Clyde Sitton?

Mr. Clark: Objected to upon the ground of hearsay, your Honor; also incompetent, irrelevant and immaterial, no authority shown or established from Boswell Company to Mr. Sitton to speak for it with regard to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: We was just talking like we generally do when we go in there, something said about the union. He said he believed the union was all right but it would never work down there, that if the union come in, they had orders to shut the place down, lock the gates, and let it lay. [1163]

Q. (By Mr. McTernan) Was anything further said at this meeting with Mr. Sitton?

(Testimony of Boyd L. Ely.)

A. I don't believe there was about the union.

Q. Are you a member, Mr. Ely, of the union here involved? A. I am.

Q. When did you join? When did you sign application to join that union?

A. September 5, 1938. [1164]

Q. And did you attend Union meetings after that time? A. Yes, sometime later.

Q. Did you attend any Union meetings in the month of November, 1938? A. I did.

Q. How many did you attend in the month of November, do you know?

A. Well, I don't know for sure.

Q. Do you remember when you attended the first meeting in November?

A. The first meeting—(pause)—I am not so sure about the date.

Q. Was that before you were laid off on November 14th?

A. Yes. I was at some meeting before I was laid off. The exact date I couldn't recall.

Q. Well, did you attend the Union meeting in November at which the charter was installed?

A. It seems that I might have. I don't remember for sure. If it wasn't at that time, it was a short time afterwards.

Q. Well, you say attended a meeting a short time after the charter was installed?

A. About November the 11th.

Q. You did attend a meeting about November 11th?

(Testimony of Boyd L. Ely.)

A. A gathering or a meeting, I don't know which they called it. [1165]

Q. Where was this gathering or meeting held?

E. At either O. L. Farr's residence or Mr. Spear's.

Q. Do you know—can you give us the name of any people present at that meeting?

A. Well, I can give you some of them.

Q. Give us as many as you can?

A. O. L. Farr, I believe; L. A. Spear; E. C. Powell, I believe L. E. Ely. There was others. I don't recall just exactly.

Q. Subsequent to the time you joined the Union, Mr. Ely, did you do any active work in organizing the Union and attempting to get other employees to join? A. No, I didn't.

Q. Did you ask anybody to join the Union?

A. Well, I did talk to the sack sewer opposite me, a little about it.

Q. Did he join? A. No.

Q. Do you recall his name? Do you remember his name? A. Hulen Murphy.

Q. During the year 1938, Mr. Ely, did you ever work on the night shift at the Boswell plant?

A. Some, yes.

Q. Where did you work? What part of the plant did you work in on the night shift? [1166]

A. In the sack sewing department just outside of the expeller room, the oil mill.

Q. Is that a part of the oil mill? A. Yes.

(Testimony of Boyd L. Ely.)

Q. Who was in charge of the oil mill during that period? A. Kelly Hammond.

Q. Did you work directly under him?

A. Yes.

Q. Take orders from him? A. Yes.

Q. Carry out those orders? A. Yes.

Q. Did he lay you off when you were through working?

A. I don't think he ever did.

Q. Did he put you to work when you started there? A. No.

Q. Well, did Tom Hammond ever put you to work at any time during your employment with the Boswell Company? A. Yes.

Q. Well, when was that?

A. One time when I was working on the shindler ditch pump.

Q. Was he in charge of that work?

A. I suppose he was.

Q. Did he give you orders after you started working there? A. Yes. [1167]

Q. And did you carry them out? A. Yes.

Q. Well, you testified just a moment ago that he put you to work there. How did he put you to work?

A. I happened to be passing by the mill one afternoon, or sometime during the day—just a few days before or a day or two before I went to work—around the 12th, something like that, and he waved me down. I stopped. He asked me if I

(Testimony of Boyd L. Ely.)

thought I could go on the pumps. I told him I thought I could.

Q. Then did he tell you to go to work on the pumps? A. Yes.

Q. Now, Mr. Ely, I am going to show you Board's Exhibit No. 3, which contains a page which is your Social Security record for the year 1938-'39, and I direct your attention to an entry here on February 9th, 1939, an entry of \$2.40, under the heading of "Salary or Wages."

You have already testified that you were laid off on November 14th, 1938. Now, did you do any work for the Boswell Company for that check?

A. No.

Q. Well, how did it happen that you got that check, do you know?

A. Well, the last work that I done amounted to about three days. I was only paid 40 cents an hour for the last three days. Then, sometime later, three or four months later,—or [1168] run down the road somewhere—I don't know exactly—this balance, that last three days' work, was sent to me.

Q. In other words, that was a payment for work you did before November 14th?

A. Yes.

Q. Since November 14th, have you done any work at all? A. Yes.

Q. Can you tell us approximately how much you have earned for that work you have done?

(Testimony of Boyd L. Ely.)

A. Something over \$100.00.

Q. Something over \$100.00, is that correct?

A. Yes.

Q. That wasn't for the J. G. Boswell Company?

A. No.

Q. If the National Labor Relations Board—are you now employed? A. No.

Q. If the National Labor Relations Board should order your re-instatement with back pay, would you be willing to go to work for the J. G. Boswell Company? A. Yes.

Mr. McTernan: You may examine.

Cross Examination

Q. (By Mr. Clark) Mr. Ely, where did you work to earn this \$100.00 you have testified to? [1169]

A. I didn't get the question.

Q. Where did you work in order to earn this \$100.00 you have just told us about?

A. Up on the high school building.

Q. Here in Corcoran? A. Yes.

Q. And in what capacity, please?

A. Laborer.

Q. For how long did you work there?

A. I don't know exactly.

Q. Well, approximately?

A. Well, something over a month; maybe one or two months.

Q. I see.

When was that?

(Testimony of Boyd L. Ely.)

A. Well, that was in part of January, I believe, when I started.

Q. To whom did you apply to get that job?

A. Well——

Mr. Mouritsen (Interrupting): That is objected to as immaterial.

Mr. Clark: I submit it.

Trial Examiner Lindsay: He may answer.

The Witness: I don't know the man's last name, the timekeeper for the company up here that had charge of the school building. [1170]

Q. (By Mr. Clark) You mean for the contracting company that was building the school building? A. Yes.

Q. Now, after November 14th of 1938, did you ever apply for work again at the Boswell plant?

A. Yes.

Q. And when was that?

A. Well, I believe it was the next morning. I went down to see about whether there was going to be some more work, when they was going to start up.

Q. And that would be the morning of November 15th?

A. I believe it was; around about that time.

Q. Who did you go to see?

A. Joe Hammond.

Q. Did you see Gordon Hammond on that occasion? A. No.

Q. Or Mr. Louie Robinson? A. No.

(Testimony of Boyd L. Ely.)

Q. Did you ever make application to either Mr. Gordon Hammond or Mr. Louie Robinson for a further job? A. No.

Q. And since the occasion you have told us about on the morning of November 15th, approximately—I am talking about this time you had applied—have you made any further applications for work at the Boswell Company? [1171]

A. No.

Q. Now, directing your attention, Mr. Ely, to the time in 1938 when you resumed work during early July, I want to ask you how long you worked on that occasion, that is, from July 1, 1938?

A. To the latter part of September.

Q. All right.

To approximately the 28th of September, is that right? A. Somewhere around there.

Q. Now, what did you do during all that time, so far as your job was concerned?

A. I started out sewing sacks.

Q. And what else did you do?

A. Then I traded with George Andrade and went to the lint room.

Q. You went into the lint room, is that right?

A. Yes.

Q. For how long during that period did you sew sacks, that is, commencing July 1st?

A. Well, around a week or better, somewhere around the first two weeks the mill started.

Q. Then during the rest of that time, that is,

(Testimony of Boyd L. Ely.)

from about the middle of July on to the last of September, did you work in the lint room?

A. Yes. [1172]

Q. And what was your rate of pay again, during that entire period?

A. Well, 40 cents sewing sacks, and they cut me down to 35 cents when I went in the lint room.

Q. I see.

Well, now, as a matter of fact, the job in the lint room customarily pays 35 cents, doesn't it?

A. Well——

Q. (Interrupting): It pays less than sack sewing jobs, doesn't it? A. Yes.

Q. Then when you were laid off the last of September, '38, how long was it before you were again given a job at the Boswell place?

A. In October, some time.

Q. Well, wasn't it around the 15th of October?

A. Well, it could have been. I don't remember the exact date; somewhere around the middle of October, I guess.

Q. All right.

What was that job, please?

A. Sewing sacks.

Q. And did you again receive your 40 cents?

A. I received 45 cents.

Q. In that job you got 45 cents, is that right?

A. Yes; they didn't tell me. It was on my check when I got [1173] it.

Mr. Clark: Let me have that last.

(Testimony of Boyd L. Ely.)

Trial Examiner Lindsay: Read the answer, please.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: All right.

Q. If I understand you correctly, Mr. Ely, you stayed at that sack sewing job up until about November 14th?

A. About that time.

Q. At the rate of 45 cents an hour?

A. Yes.

Q. Correct?

A. Yes.

Q. All right.

When was it that you went into the grain harvest instead of staying at the plant? What year was that?

A. 1937, the first time. I was there a little the last year, too, a few days.

Q. I understood you to say on your direct examination that during one year you worked in the grain harvest instead of at Boswell's after some talk you had with Mr. Gordon Hammond, is that right?

A. Yes.

Q. Was that in 1937?

A. Yes. [1174]

Q. Why was it you went to work in the grain harvest instead of staying on at Boswell's?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: I will submit it. It goes to explain a statement he made on his direct examination.

Trial Examiner Lindsay: He may answer.

The Witness: Well, the water was beginning to

(Testimony of Boyd L. Ely.)

fill up in the lake out here by town; didn't know whether there was going to be a lot of work that summer or not.

Q. (By Mr. Clark) A lot of work where?

A. At the Boswell plant.

Q. Yes.

A. So I had a job in the harvest with better pay. I thought I would take it while I had a chance.

Q. Exactly.

Now, on your direct examination, I think you used, made the statement that it didn't look like too much work there.

You remember saying that? A. Yes.

Q. Now, by that, did you mean it didn't look like too much work, like there would be too much work at the Boswell plant?

A. Didn't look that way on account of the water coming in the lake, didn't know how fast it would come in; wasn't an overflow, or what not, but if I stayed I could have worked.

Q. I see. [1175]

Now, as a matter of fact, it did turn out, didn't it, that the following season, that is, the '38-'39 season, was a short season at the Boswell plant?

A. Yes, shorter than the others.

Q. And during that fall, did you observe that there was less work to go around than there had been formerly?

Mr. Mouritsen: Objected to as vague and indefinite, unintelligible.

(Testimony of Boyd L. Ely.)

Mr. Clark: I will submit that. It is perfectly intelligible.

Trial Examiner Lindsay: If he understands, he may answer.

Do you understand the question?

The Witness: I think I do.

Yes, there was some—there was less work than there had been the year before.

Q. (By Mr. Clark) Now, did you know of a conversation between Mr. Prior and Mr. Gordon Hammond in early October with reference to putting you back to work?

A. I believe I heard some remark about that.

Q. Did Mr. Prior report to you the result of that conversation?

A. I believe he did.

Q. And did you understand that it was as a result of that conversation that you were again employed on October 15th, about, of 1938?

A. Well, it looked that way. [1176]

Q. That was your assumption, is that right?

A. Yes.

Q. You joined the Union when, Mr. Ely?

A. On September 5th, I think.

Q. And after you joined the Union, did you let it be known to other employees that you were a member of the Union?

A. No, I didn't broadcast it.

Q. Did you talk to any other employes about it, who were not members of your Union?

(Testimony of Boyd L. Ely.)

A. Outside of that sack sewer, I don't think I mentioned anything about it. I didn't even tell him I belonged to the Union.

Q. Didn't tell him that you belonged?

A. No.

Q. After November 18th, did you attend any meetings of the Union? A. Yes.

Q. Did you attend a meeting on the next day at which a boycott was declared against the Boswell Company? That is, on November 19th?

A. I attended several meetings. The dates I don't recall.

Q. Well, did you attend a meeting of the Union at which a boycott was declared against the Boswell Company by the membership of this Union?

A. I think I did.

Q. And you have been taking part in that boycott, haven't you? [1177] A. I have.

Q. Have you been on the picket line?

A. I have.

Q. Now, did you attend any meetings of the Union after November 28th, in which Mr. Prior made a report of a meeting he had had with Mr. Louie Robinson on that day? A. After?

Q. Withdraw it.

Did you ever hear—did Mr. Prior, rather, ever report to you in Union meeting or otherwise the result of a conversation he had on November 28th with Mr. Louie Robinson of the Boswell plant, at which the matter of the re-employing of the members of your Union was discussed?

(Testimony of Boyd L. Ely.)

A. I don't remember whether he made any such report to me or not. I heard of it, but I don't know just who by. [1178]

Q. How did you hear of it? A. Well——

Q. (Interrupting): Do you remember?

A. I was with some of the boys most all the time.

Q. And by "some of the boys," you mean some of the members of the union? A. Yes.

Q. And you heard them discussing it, did you?

A. Yes.

Q. In that connection, did you hear that Mr. Prior had stated to Mr. Louie Robinson that unless Mr. Martin was reemployed that then no one would go back to work?

A. I couldn't say that I heard any such statement as that.

Q. Did you hear any statement along that line?

A. Seems like I heard something said about it, that he couldn't go back to work.

Q. That Martin couldn't? A. Yes.

Q. Is that right? A. Yes.

Q. And then did you hear a statement to the effect that Mr. Prior had told Mr. Robinson that if Martin couldn't go back to work, nobody would go back?

A. I don't remember hearing that statement.

Q. Well, what—— [1179]

Trial Examiner Lindsay (Interrupting): I think—just one moment.

Mr. Clark: Withdraw that.

(Testimony of Boyd L. Ely.)

Trial Examiner Lindsay: That is a misquotation of the evidence. The statement regarding that matter was, by Prior and others, that if Martin and others were not to go back to work, then there was no necessity of further discussing the matter.

Mr. Clark: It means the same thing, Mr. Examiner.

Trial Examiner Lindsay: Whether it does or not, it is another question.

Mr. Clark: The record speaks for itself.

May I have the question read back?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I will withdraw.

Q. Did you hear any statement, Mr. Ely, regarding this conversation we are discussing, to the effect that Mr. Prior had refused to discuss the matter of reinstating the members of your union with Boswell's until Martin was re-employed?

A. I don't remember any such statement.

Q. Well, do you remember anything in that general nature?

Mr. Mouritsen: I object to that as vague and indefinite, Mr. Examiner.

Mr. Clark: I will withdraw it. [1180]

Mr. Mouritsen: This type of examination, what he didn't say—we can find out perfectly easily by asking the witness what he did say.

Mr. Clark: I am entitled to exhaust the conversations or to ask him whether certain things were

(Testimony of Boyd L. Ely.)

said. I prefer to do it that way. I will submit it.

Trial Examiner Lindsay: Well, the question has been answered. Proceed.

Q. (By Mr. Clark) Was that general subject matter discussed at all, Mr. Ely, after the November 28th meeting among the membership of your union?

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: In your presence, of course.

The Witness: I don't remember.

Q. (By Mr. Clark) What if anything did you hear, Mr. Ely—withdraw that.

After November 28th of last year, were you ever present at any meeting of the union at which the attitude of the union toward the Boswell Company was determined upon by the members with respect to whether they would or would not go back to work? A. I don't quite get it.

Q. All right.

Am I correct in stating that shortly after November 18th [1181] the union voted a boycott against Boswell's? Is that right?

A. I suppose so.

Q. Well, don't you know?

A. Well, they did.

Q. Weren't you there? A. Yes.

Q. All right. You took part in the vote, didn't you? A. Yes.

Q. All right.

(Testimony of Boyd L. Ely.)

Did they also vote to go out on strike against Boswell?

A. I never heard anything about a strike at Boswell's.

Q. All right.

Now, at the time they voted to boycott Boswell's, will you please tell us what if anything was determined upon as being the condition for the termination of the boycott?

A. I don't recall just what was said at that meeting.

Q. Was anything said at that meeting concerning the purpose of the boycott so far as the union was concerned?

A. I suppose there was, but I don't remember just what was said.

Q. Well, don't you know what you voted for, Mr. Ely?

Mr. Mouritsen: Objected to as argumentative.
Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Is it your best recollection that you have given us on that subject? [1182]

A. The best I remember.

Q. Was Mr. Prior present at that meeting?

A. I think so.

Q. I want to show you a document consisting of three pages, which has been marked Respondent Boswell's Exhibit 8 for identification in this case, which purports to be a letter dated October 17, 1938, addressed to Mr. G. L. Hammond, superintendent, J. G. Boswell Company, Corcoran, Cali-

(Testimony of Boyd L. Ely.)

fornia, by J. G. Boswell Company, Louis T. Robinson, attached to which are two columns of lines, one headed "I prefer 8-hour shift," and the other "I prefer 12-hour shift," and upon which certain names appear under the heading "I prefer 12-hour shift."

Have you ever seen that before?

A. I have.

Q. And where, please?

A. In Mr. Gordon Hammond's office down at the plant.

Q. And when?

A. Well, a short time before we went back to work.

Q. You mean about the 15th of October?

A. Somewhere around there.

Q. Or would it be about the 17th of October?

A. Well, I couldn't say; somewhere in there.

Q. All right.

Now, I want to direct your attention, Mr. Ely, to the [1183] signature, "B. L. Ely," which appears on the right-hand column of the second page of this document, and the eleventh signature. I will ask you whether or not that is your signature.

A. (Examining document) It is.

Q. And did you sign it on or about October 17th at this conversation with Mr. Hammond?

A. Somewhere around that, or just a short time after; somewhere in there.

Q. At that time did Mr. Hammond show you this letter? A. He did.

Q. Did he discuss it with you?

(Testimony of Boyd L. Ely.)

A. Well, he showed me the letter.

Q. What did he say about it?

A. I don't remember.

Mr. Mouritsen: This is objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will submit that.

Trial Examiner Lindsay: He may answer.

The Witness: I don't remember what he said about it.

Q. (By Mr. Clark) Do you remember the substance of what he said about it?

Mr. Mouritsen: May I have a continuing objection to all the examination concerning this document that has been marked Boswell's 8 for identification on the ground that it is in- [1184] competent, that it does not have any bearing upon the issues of this case whether the Boswell Company engaged in unfair labor practices.

Trial Examiner Lindsay: Yes. You may have a continuing objection and exception.

Mr. Clark: May I have the question read back, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark) What Mr. Gordon Hammond said about this document?

A. No. There was something said about the short run.

Q. What did you understand by the term "short run"?

(Testimony of Boyd L. Ely.)

A. Of the mill; mentioned something about how long it would take to run the seed.

Q. That is the seed on hand? A. Yes.

Q. And did Mr. Gordon Hammond say it would take only a short time to exhaust that seed?

A. I believe it was 60 or 70 days.

Q. That is what he said, is that right?

A. The best I remember.

Q. Well, did he say anything to you—withdraw that.

Did he say to you that it was up to the men whether [1185] they wanted to work an 8-hour shift or a 12-hour shift in the mill?

A. He said something about passing that paper around to sign up, whether they wanted 12 hours or 8 hours.

Q. Was that all he said, in substance, to you about it?

A. Well, he might have said something else. I don't remember just what all he said.

Q. Is that all you can recall to mind at the present time?

A. He said it didn't make any difference to him whether they worked 12 hours or 8 hours; get the same rate of pay per hour. I didn't know how to make in 8 hours the same money, per hour, and I said I might as well sign with the rest of them; seemed like they all wanted 12 hours.

Q. At the time you signed it did you see some other names ahead of yours? A. Yes.

Q. In other words, just as they appeared on this document now, isn't that right?

(Testimony of Boyd L. Ely.)

A. I suppose so.

Q. You signed it voluntarily, didn't you?

A. Yes.

Q. In other words, it was of your own free will that you signed it?

A. Just signed it; if I didn't probably not working. [1186]

Q. What do you mean by that?

A. Well, just a rumor I had heard.

Q. Did Mr. Gordon Hammond say anything to you about that? A. Only what I told you.

Q. That is all he did say, isn't that it?

A. The best I remember.

Q. Isn't it a fact he told you it didn't make any difference in whether you worked 8 hours or 12 hours?

Mr. Mouritsen: I object to this manner of examining the witness, browbeating him.

Mr. Clark: May I have an answer to the question?

Trial Examiner Lindsay: He has answered the question. Proceed.

Q. (By Mr. Clark) And you signed of your own free will, didn't you?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I submit that.

Trial Examiner Lindsay: Sustained.

Mr. Clark: I will offer the document in evidence, your Honor, as Respondent Boswell's Exhibit next in order.

(Testimony of Boyd L. Ely.)

Mr. Mouritsen: Object to the introduction upon the ground it does not tend to prove or disprove the issues in this matter; it is incompetent, irrelevant and immaterial.

Mr. Clark: May I make a statement, Mr. Examiner?

Trial Examiner Lindsay: If you think it is necessary. [1187] I am going to receive the document.

Mr. Clark: Very well then. I don't want to make a statement.

(Thereupon the document above referred to was received in evidence and marked respondent Boswell's Exhibit No. 8.)

BOSWELL'S EXHIBIT NO. 8

J. G. Boswell Company
Cotton Merchants and Manufacturers
of Cottonseed Products
Corcoran, California
Home Office
Los Angeles, California

October 17, 1938.

Mr. G. L. Hammond, Superintendent
J. G. Boswell Company
Corcoran, California

Dear Sir:

As you and your oil mill employees know, because of the Agricultural Adjustment Administra-

(Testimony of Boyd L. Ely.)

tion Farm Program enforcing a curtailment in our cotton acreage of approximately 45% of last year, and because of the loss of the largest part of the Corcoran crop by the Tulare Lake floods, we will only have a crush this season of around 5,000 to 6,000 tons of cottonseed.

The management of this Company has no particular preference as to when this seed is crushed because we already have a large unsold supply of cottonseed cake on hand and if we crush the seed we will only accumulate more unsold cottonseed cake, and if we have to carry the by-products of the cottonseed anyway, we can carry the whole cottonseed cheaper.

It has come to the attention of the management that perhaps some employees prefer three 8 hour shifts instead of two 12 hour shifts.

It would be appreciated if you will have your oil mill employees signify below their preference for starting the crush and their preference between a 12 hour shift and an 8 hour shift.

Yours very truly,

J. G. BOSWELL COMPANY
LOUIS T. ROBINSON

I prefer 8 hr. shift

.....

I prefer 12 hr. shift

YGNASIO GALVAN
JACK OWINGS
D. B. BURDINE
CLARK MITCHELL

(Testimony of Boyd L. Ely.)

K. V. HAMMOND

R. E. WHITE

H. R. MURPHY

PAUL MORRIS

OSCAR WHITE

A. GALVAN

NALEN BUTCHER

WALTER WINSLOW

TOM DORNHAM

J. W. TISDALE

JOE BRILEY

B. L. ELY

LAWRENCE GALVAN

V. C. GALVAN

PETE GALVAN

MANUEL ESCOBEDO

EDWARD WILLIAMS

I prefer starting crush immediately

.....

I prefer delaying this season's crush

.....

[Endorsed]: Filed 5/25/39.

Mr. Clark: No further questions.

Mr. McTernan: That is all.

(Witness excused.)

Mr. Mouritsen: Could we take a short recess at this time?

Trial Examiner Lindsay: Yes.

(Discussion outside the record.)

Trial Examiner Lindsay: We will take a 20-minute recess.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: The hearing is called to order.

Mr. Clark: Ready.

Mr. Mouritsen: Ready for the Board.

Call Mr. L. E. Ely.

L. E. ELY

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows: [1188]

Direct Examination

Q. (By Mr. Mouritsen) What is your name?

A. L. E. Ely.

Q. Where do you reside?

A. 1149 Brokaw.

Mr. Clark: What is the witness' initials?

Trial Examiner Lindsay: L. A. Is that right?

The Witness: L. E.

Q. (By Mr. Mouritsen) Can you speak up a little louder? A. Yes.

Q. Did you ever work for the J. G. Boswell Company in Corcoran, California? A. Yes.

Q. When did you first work for that company?

A. In either September or October, 1936.

Q. What type of work did you start to do with the company? A. On the hay cutter.

(Testimony of L. E. Ely.)

Q. What rate of pay did you receive?

A. 30 cents an hour.

Q. What hours did you work per day?

A. Eleven.

Q. How long did you work on the hay cutter at that time?

A. Approximately two months.

Q. Then what type of work did you do?

A. I was laid off. [1189]

Q. How long were you laid off?

A. Until September of 1937.

Q. What type of work did you start to do then?

A. Well, I started in around the gins, working around the gins, and sucking the seed.

Q. And what rate of pay did you receive per hour?

A. 35 cents per hour.

Q. What hours did you work per day?

A. 12 hours.

Q. How long did you continue to do that type of work?

A. Until about November of 1937.

Q. What type of work did you start to do then?

A. Press helper in No. 4 gin. [1190]

Q. Was there any change in your rate of pay or hours of work?

A. No, sir.

Q. How long did you continue to do that type of work?

A. Up until February of 1938.

Q. What occurred then?

A. I—well, I did odd jobs in the gin, out in the yard, hauled sand.

Q. How long did you continue to do that type of work?

A. Until March 9th, 1938.

(Testimony of L. E. Ely.)

Q. At that time, were you paid off?

A. Yes.

Q. When did you next work for the Company?

A. I think it was in June of 1938.

Q. What type of work did you start to do then?

A. Chasing lint, and oil mill.

Q. And what was your rate of pay at that time?

A. 35 cents.

Q. And what hours did you work per day?

A. Twelve hours.

Q. How long did you continue to do that type of work? A. Two weeks.

Q. Then what occurred?

A. I was laid off again.

Q. When did you next go back to work for the Company, if ever? [1191]

A. I think it was in July.

Q. What type of work did you do in July?

A. Baling straw.

Q. And after that—how long did you work beginning in July?

A. About six weeks, I think.

Q. Were you then laid off? A. Yes.

Q. When did you next go back?

A. In October.

Q. And what type of work did you start to do in October? A. As a gin press helper.

Q. This was in 1938? A. 1938.

Q. Was there any—did you receive 35 cents per hour when you went back in October, '38?

(Testimony of L. E. Ely.)

A. I received 40.

Q. And what hours did you work in October of 1938? A. Twelve hours.

Q. How long did you continue to do that type of work?

A. Well, I was a press helper for about five days, then the press man was taken ill and I had the head pressman's job.

Q. Who was the pressman that was taken ill?

A. Joe Briley.

Q. Had you been his helper prior to that time? [1192] A. Yes.

Q. After you took the job over, how long did you continue to do that type of work?

A. For about two weeks.

Q. Then what type of work did you do?

A. He came back, and I went back as a helper.

Q. After you resumed your work as a pressman's helper, what rate of pay did you receive?

A. 35 cents.

Q. And how did you—strike that.

When did you first find out that you were only receiving 35 cents per hour for your work as a press helper?

A. It was on Saturday at payday when I received the check.

Q. Do you recall the month and the year?

A. On or about October or November—let's see. November, about the 12th, of 1938.

Q. Did you have any conversation with anyone

(Testimony of L. E. Ely.)

regarding the fact that you were receiving 35 cents per hour? A. Yes.

Q. With whom did you have such a conversation? A. Tommie Hammond.

Q. Where did the conversation take place?

A. East side of Number 3 and 4 gin dryer.

Q. And was this on the same day on which you found out that you were receiving 35 cents per hour? [1193] A. Yes.

Q. Was anyone else present other than yourself and Tommie Hammond? A. Joe Briley.

Q. Did he take any part in the conversation?

A. Not that I remember.

Q. Will you state what Tom Hammond said to you on that occasion, and what you said to Tom Hammond?

Mr. Clark: To which we object, Mr. Examiner, on the ground it calls for hearsay, and is incompetent, irrelevant and immaterial, and upon the further ground that there is no authority established in this record to Mr. Tom Hammond or the other persons present at this conversation to speak for the Respondent Boswell with respect to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer, and you may have an exception.

The Witness: Well, I asked Tom did he know why my check was cut down from 40 to 35 cents per hour. And he said, "No, is it?"

And I said, "Yes." And I asked him would he find out about it.

(Testimony of L. E. Ely.)

And he said that he would. Then he stated that maybe the Union had something to do with it.

Mr. Clark: May I have that last read? I didn't quite hear [1194] it.

Trial Examiner Lindsay: Yes. Read the last of the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) At that time, was anything said regarding the Union committee; do you recall? A. Yes.

Q. Will you state what was said?

A. He said——

Mr. Clark (Interrupting) Same objection, Mr. Examiner.

Trial Examiner Lindsay: The same ruling.

The Witness: He said, "Maybe you should get your committee together and go up to the office and see if they couldn't find out something about it."

Q. (By Mr. Mouritsen) Did you make any reply to that?

A. I said, "Well, I really hadn't thought of that. It might be a good idea."

Q. Do you recall anything further that was said at that time, either by yourself or Tom Hammond?

Mr. Clark: Same objection.

Trial Examiner Lindsay: Same ruling.

Mr. Clark: The objection is that it is incompetent, irrelevant and immaterial whether anything else was said. I don't know if this calls for the con-

(Testimony of L. E. Ely.)

versation or not. [1195]

Trial Examiner Lindsay: He may answer.

Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: About that time he started to go back into the gin, and Tommie said, "Well, I will see about why your wages was cut, and let you know."

Q. (By Mr. Mouritsen) And did that end the conversation? A. Yes.

Q. During the month of November, 1938, did you suffer any injury to your hand or thumb?

A. Yes.

Q. When did that occur?

A. Well, it first started in about November 5th.

Q. And what happened at that time in reference to such an injury?

A. I was tying out cotton at the press, and I scratched my thumb with one of the ties, and it set up an infection.

Q. Yes.

Did you visit the doctor at that time?

A. No, I didn't go until the 9th of November.

Q. And did you visit the doctor with reference to the injury on a number of occasions after November 9th, 1939? A. Yes.

Q. On approximately how many different occasions? [1196]

(Testimony of L. E. Ely.)

A. Every other day for about three weeks, and then I would go twice a week to see him.

Q. Yes.

And after—strike that.

When did you last work for the J. G. Boswell Company? A. November 14th, 1938.

Q. On that day did you have a conversation with the doctor relative to your injury? A. Yes.

Q. Where did the conversation take place?

A. In Doctor Edmonds' office in Corcoran.

Q. Do you know the street number of this Doctor's office in Corcoran?

A. No, I don't. It is what we call the main street.

Q. Do you know whether or not that is called Whitley Avenue? A. I think that is.

Q. And do you know any of the cross streets near which that office is?

A. I don't remember any of them right now.

Q. Was anyone else present at the time when you had your conversation with Doctor, I believe you said, Edwards? A. Edmonds.

Q. Was anyone else present? A. No.

Q. Will you state what Doctor Edmonds said to you at that [1197] time, and what you said to Doctor Edmonds? A. (Pause.)

Mr. Clark: Objected to as incompetent, irrelevant and immaterial, and calling for hearsay.

Trial Examiner Lindsay: He may answer.

The Witness: He asked me if I was still working, and I said, "Yes, I am."

(Testimony of L. E. Ely.)

And he said, "Well, you go home and don't you work any more until I tell you you are able to work."

And I said, "All right."

Q (By Mr. Mouritsen) Now, after that, was there anything further said that you recall?

A. Not that I recall.

Q. After that time, did you make any report to any of the Hammond boys regarding your injury and the statements the doctor had made to you?

Mr. Clark: I object to that, may it please the Examiner, on the ground that it is incompetent, irrelevant and immaterial. I know of no issue in this case having to do with the subject matter. It certainly doesn't involve discrimination against anyone for having joined the Union, or any matter that I am familiar with under the National Labor Relations Act.

Trial Examiner Lindsay: We will have the whole story. You may have an exception.

Read the question. [1198]

(The question referred to was read by the reporter, as set forth above.)

The Witness: Yes.

Q. (By Mr. Mouritsen) And to whom did you make such report? A. Tommie Hammond.

Q. And when was it with reference to the conversation you had had with the Doctor?

(Testimony of L. E. Ely.)

A. As soon as I got back to the plant from the Doctor's office.

Q. And after you had made the report to Tom Hammond, did he tell you to go home?

A. Yes.

Trial Examiner Lindsay: One point I did not get.

What was the day you were injured on? November what?

The Witness: 5th.

Trial Examiner Lindsay: 5th.

Q. (By Mr. Mouritsen) And have you worked for the Boswell Company since on or about November 14th, 1938? A. No.

Q. Now, during the time while you were employed with the J. G. Boswell Company, did you ever become a member of any labor organization?

A. Yes.

Q. Of what organization?

A. American Federation of Labor. [1199]

Q. And did you become affiliated with any Local of the American Federation of Labor?

A. Yes.

Q. Do you recall the name of the Local?

A. Cotton Products and Grain Mill Workers' Union, Local 21798.

Q. Now, when did you become a member of that organization? A. On November 11th, 1938.

Q. Did you become a member at any gathering, or get-together of the employees, held on or about that date? A. I don't remember now.

(Testimony of L. E. Ely.)

Q. Well, where were you when you signed up?

A. I was at the home of Lonnie Spear.

Q. And were there a number of other employees of the Company present at that time?

A. Yes.

Q. Will you name as many as you can of the people who were present at that time?

A. Lonnie Spear, R. K. Martin, George Andrade, Walter Winslow, W. R. Johnston, Coon Powell.

Q. Is he also known as E. C. Powell?

A. Yes.

And Pete Wingo, and others I don't remember now. [1200]

Q. Now, during the time while you were employed by the J. G. Boswell Company did you ever have any conversation with Bill Robinson relative to the union or its members?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Overruled. You may answer.

The Witness: Yes.

Q. (By Mr. Mouritsen) Now, who was Bill Robinson?

A. He is an employee at the J. G. Boswell plant in Corcoran.

Q. During the course of your employment did you on a number of occasions work in and about the gin? A. Yes.

Q. During that time while you worked in and

(Testimony of L. E. Ely.)

about the gins did Robinson ever give you any orders or directions regarding your work?

A. Yes.

Q. Did he do that on a number of occasions?

A. Yes.

Q. Did you obey the orders or directions he gave you concerning the work? A. Yes, sir.

Q. On a number of occasions did you observe that he gave instructions or orders to other employees working in the gin? A. Yes. [1201]

Q. Did you observe whether or not they also carried out the orders of Bill Robinson?

A. They did.

Q. Now, I believe you stated that you had a conversation with Robinson.

Do you recall on or about what date that took place?

A. It was on or about October 22nd of 1938.

Q. And where did the conversation take place?

A. East of the No. 3 and 4 gin platform.

Q. Was anyone present other than yourself and Bill Robinson? A. No.

Q. Will you state what Mr. Bill Robinson said to you on that occasion and what you said to him?

Mr. Clark: To which we object, Mr. Examiner, on the ground it calls for hearsay, no authority having been shown in this record from the Respondent Boswell Company to Mr. Bill Robinson to speak for the company with respect to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer.

(Testimony of L. E. Ely.)

The Witness: The conversation started—I asked Bill—I saw George Andrade raking up around the warehouse, and I asked Bill why George wasn't back in the lint room. I knew he had been there for ever since I had been there—ever since I had been there he had always worked in the lint room.

And he said, “Haven't you heard any talk about the union?” [1202]

And I said, “No, I haven't.”

He said, “Well, George belongs to it. That is why he is out there.” He said, “He is just working on borrowed time.”

Mr. Clark: May I have the last?

Mr. Mouritsen: “He is just working on borrowed time.”

Q. Isn't that correct? A. Yes.

Q. Do you recall anything further that was said at that time?

A. He said there was a couple more around there——

Mr. Clark (Interrupting): The same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: “A couple or three more around here that you know real well that is in the same boat he is in.”

He says, “You are working with one of them and the other is over in No. 1 or 2 gin.”

Q. (By Mr. Mouritsen) With whom were you working at that time?

A. R. K. Martin, the ginner.

(Testimony of L. E. Ely.)

Q. Do you recall any further conversation at that time? A. No, I don't.

Q. Now, did you have a conversation with Gordon Hammond on or about November 18, 1938?

A. Yes. It was in the afternoon or the evening.

Q. Approximately what time in the evening? [1203]

A. Between 7:00 and 8:00 o'clock.

Q. And where did the conversation take place?

A. Between the J. G. Boswell office and the oil mill.

Q. That is, out at the J. G. Boswell plant, is that correct? A. Yes.

Q. Was anyone else present other than yourself and Gordon Hammond at that time?

A. The engineer, Workman, Frank Price; that is all I remember now that was there.

Q. Yes.

Did you observe in and about the office of the plant a number of the other employees of the company? A. Yes.

Q. Approximately how many?

A. Well, 70 or 80.

Q. Well, will you state what conversation you had with Gordon Hammond on that occasion?

A. Well, I told him that my thumb was getting better and I thought I soon would be ready to go back to work.

And he told me that—to see Tommy, that Tommy was inside of the office.

Q. Do you recall anything further that was

(Testimony of L. E. Ely.)

said? A. Not by him.

Q. Well, at or about that time did you hear any other em- [1204] ployee of the company say anything? A. Yes.

Q. Who was this other person?

A. Frank Parrish.

Q. And who is he?

A. He is the blacksmith, I think, is what job he holds at the plant in Corcoran of the J. G. Boswell Company.

Q. What did Parrish say to you?

Mr. Clark: Do I understand, Mr. Examiner, that this conversation is in the presence of Gordon Hammond? The conversation between the employee Parrish? If it isn't, I want to object to it on the ground it calls for hearsay.

Mr. Mouritsen: I will establish that.

Q. At the time when you said anything to Parrish or Parrish said anything to you, was Gordon Hammond present? A. Yes.

Q. How far away from you was he at the time when Parrish said something to you or you said something to Parrish?

A. He could have been two or three yards.

Q. Very well. Will you state now what Frank Parrish said to you or you said to Parrish on that occasion?

Mr. Clark: May I ask one preliminary question in that regard?

Trial Examiner Lindsay: Well, yes.

(Testimony of L. E. Ely.)

Mr. Clark: Mr. Ely, was Mr. Gordon Hammond taking part [1205] in this conversation at the time Parrish made the statement to you you are about to give us?

The Witness: He was standing by.

Mr. Clark: Had you been talking to him and had he been taking part in the conversation?

The Witness: He had been talking to me.

Mr. Clark: Was this within Mr. Gordon Hammond's hearing?

The Witness: Absolutely.

Mr. Clark: Very well.

Mr. Mouritsen: Very well.

Q. Now, will you state what Mr. Parrish said to you, if anything?

A. Well, he said, "Come on, kid, get out of there and go in the office and sign that paper. Keep this God damned A. F. of L. union out of here. We don't need it. We have had a long time without it. We can still get along without it."

Q. Where was Mr. Parrish standing when he made that statement to you?

A. Beside my car.

Q. Now, after November 14, 1938, did you ever make application for employment with the J. G. Boswell Company? A. No.

Q. Did you ever receive any notification from them regarding [1206] your further employment with the company? A. Yes.

Q. About when did you receive such notification? A. On or about November 26, 1938.

(Testimony of L. E. Ely.)

Q. And what was the form of that notification?

A. Registered letter.

Q. And did that inform you that your services were terminated? A. (Pause)

Mr. Clark: Well, I submit, Mr. Examiner, the letter is the best evidence if it is available.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Mouritsen) Do you have that letter with you? A. Yes.

Q. Now? A. Yes.

Mr. Mouritsen: May I have it, please?

(The document referred to was passed to Mr. Mouritsen.)

Mr. Mouritsen: May this be marked for identification?

(Thereupon the document above referred to was received and marked as Board's Exhibit No. 8 for identification.)

Q. (By Mr. Mouritsen) Now, Mr. Ely, I show you a document that has been marked Board's Exhibit 8 for identification and ask you if that is the notification regarding termination of your employment that you referred to. [1207]

A. Yes, sir.

Q. And did you receive that through the ordinary course of the mail?

A. Yes, sir; through the post office.

Q. In other words, you picked it up at the post office, is that correct? A. Yes.

Q. And are you acquainted with the signature of Mr. Louis T. Robinson?

(Testimony of L. E. Ely.)

Mr. Clark: There is no question about it. It may go in evidence as far as we are concerned.

Mr. Mouritsen: Very well.

At this time I offer as Board's Exhibit 8 the document marked as Board's Exhibit 8 for identification.

Mr. Clark: No objection.

Trial Examiner Lindsay: Board's Exhibit 8 received.

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 8.)

BOARD'S EXHIBIT No. 8

J. G. Boswell Company

Cotton Merchants and Manufacturers

of Cottonseed Products

Corcoran, California

Home Office

Los Angeles, California

November 28, 1938.

Registered Mail Return Receipt Requested

Mr. L. E. Ely

Corcoran, California

Dear Sir:

Because of the reduced receipts at our plant of seed cotton for ginning, and in accordance with our usual operating practice, we closed down gin #4 on

(Testimony of L. E. Ely.)

which you were employed, Saturday, November 26, at 5 P. M. and your employment by this Company terminated at that time.

Your closing pay check has been issued and will be delivered to you at the usual place in our Corcoran office.

Yours very truly,

J. G. BOSWELL COMPANY

LOUIS T. ROBINSON

(Envelope):

J. G. Boswell Company

Corcoran, California

Registered Mail Return Receipt Requested

(Addressed to):

Mr. L. E. Ely

Corcoran, Calif.

Register No. 536.

(Stamped on reserve side):

Corcoran, Calif., Nov. 28, 1938.

[Endorsed]: Filed 5/31/39.

Q. (By Mr. Mouritsen) After that time—now, after you received the document that has been marked Board's Exhibit 8 for identification, did you ever apply for employment? A. No.

Trial Examiner Lindsay: You just changed your question there. It is now an exhibit and not marked for identification. [1208]

Mr. Mouritsen: Did I say for identification?

Trial Examiner Lindsay: Yes.

(Testimony of L. E. Ely.)

Mr. Mouritsen: May that be changed?

Mr. Clark: Oh, surely.

Q. (By Mr. Mouritsen) After November 14, 1938, were you ever informed by the doctor that you could go back to work?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial; and calling for hearsay. This doctor, Mr. Examiner, hasn't been identified as being the representative of this company for compensation purposes or of the insurance company which carries compensation on these employees. In fact, he hasn't been identified at all as far as I have heard.

Trial Examiner Lindsay: I think we have a pretty good idea. He lives in this little city. His name has been given.

He may answer.

Mr. Clark: Exception.

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: Yes.

Q. (By Mr. Mouritsen) How did you happen to go to Dr. Edmond's in the first place, Mr. Ely?

A. Well, it is what we call the family doctor. That is the one I have always went to; and I think it was Bill Robinson or Tommy Hammond that told me that was the doctor to go to. [1209]

Mr. Clark: May it please your Honor, I move that go out on the ground of hearsay, no authority

(Testimony of L. E. Ely.)

shown to either of those gentlemen to act for this company. I didn't have a chance to interpose my objection, so I put it in the form of a motion to strike.

Trial Examiner Lindsay: The motion is denied.

Q. (By Mr. Mouritsen) Now, I believe you stated that some time after November 14th, 1938, you were informed by the doctor that you could go back to work, is that correct?

Mr. Clark: The same objection; hearsay.

Trial Examiner Lindsay: Same ruling.

The Witness: Yes.

Q. (By Mr. Mouritsen) On or about what date did he give you that information?

A. December 2nd, 1938.

Q. And where were you at the time when he told you you could go back to work?

A. In the doctor's office.

Q. Was anyone else present? A. No.

Q. Did he at that time examine your injured thumb? A. Yes.

Q. Then what did he say to you, if anything?

Mr. Clark: The same objection, your Honor; hearsay.

Trial Examiner Lindsay: Same ruling. [1210]

The Witness: He said I could go back to work if—that day if I would be careful with my injured thumb.

Q. (By Mr. Mouritsen) And after that time

(Testimony of L. E. Ely.)

did you apply for employment with the company?

A. No.

Q. What was the reason for your not applying?

A. I had received a registered letter from him stating that I was no longer needed.

Q. Prior to your lay-off on November 14, 1938, how had you been notified to return to work?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Sometimes I would go down to the plant in person and other times they would come out to the house where I live after me.

Q. (By Mr. Mouritsen) And can you give us the name of any person who came out to the house to get you to come to work on prior occasions?

A. Gordon Hammond.

Q. Any others?

A. Not that I remember.

Q. Since December 2nd, 1938, have you picketed the plant here in Corcoran?

A. Yes. [1211]

Q. Have you done that on a number of occasions? A. Yes.

Q. If the National Labor Relations Board—strike that.

Since you were laid off or since you ceased working on November 14, 1938, have you had other employment?

A. I think I worked approximately 14 hours.

(Testimony of L. E. Ely.)

Q. And what compensation did you receive, if any? A. I received \$4.80.

Q. And other than the \$4.80 have you earned any other money during the period from November 14, 1938, to the present date?

A. \$7.80.

Q. Well, other than the \$4.80 and the \$7.80, have you earned any other money? A. No.

Q. Are you now employed? A. No.

Q. If the National Labor Relations Board should order your reinstatement with back pay, would you accept employment with the J. G. Boswell Company?

A. (Pause) Yes.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Ely, you hesitated on that last question. Have you any reservation you wish to make to that [1212] answer? You understand what I mean? A. Yes, I understand.

Q. Well, have you any, any qualification to that answer?

A. Well, I really wouldn't like to work at 12 hours a day again.

Q. You would not.

Now, what other conditions in the plant there as they existed at the time you worked at the Boswell Company would stand in the way of your accepting employment from that company should the Board order your reinstatement?

(Testimony of L. E. Ely.)

Do you understand the question?

May I have it read, Mr. Examiner?

Trial Examiner Lindsay: Yes.

The Witness: Well, I would like to get more money for my work.

Q. (By Mr. Clark) More money than the 35 cents an hour you were getting? A. Yes.

Q. Or the 40 cents an hour you were getting?

A. Either one.

Q. What?

A. Either one.

Q. More than the 40 cents, too?

A. Yes.

Q. In other words, you weren't satisfied at all with your [1213] job at Boswell's, were you, prior to the time you finally left?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained as to the form of the question.

Q. (By Mr. Clark) Well, you weren't satisfied with your employment, Mr. Ely, then, prior to November 14th, upon which date I think you told us you finally left the company?

Mr. Mouritsen: Objected to as already asked and answered, and argumentative.

Trial Examiner Lindsay: Well, he may answer.

Mr. Mouritsen: Irrelevant and immaterial.

Mr. Clark: What is the ruling?

(Testimony of L. E. Ely.)

Trial Examiner Lindsay: He may answer.

The Witness: What is the question?

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

The Witness: No.

Q. (By Mr. Clark) And if I understand you correctly, you weren't satisfied with the number of hours you were required to work or the amount of pay you were getting, isn't that so?

A. That is correct. [1214]

Q. Is that why you joined the union?

A. It is.

Q. When did you apply, first apply for membership in the union? A. November 11, 1938.

Q. Well, was that the date upon which you were initiated or the date upon which you first signed the application?

A. When I first signed the application.

Q. I see.

And had you had any discussions with any union members prior to that time about joining?

A. I had.

Q. Who were they, please? Who did you talk to?

A. Joe Briley and R. K. Martin.

Q. Who presented you with the application you finally signed? A. R. K. Martin.

Q. Now, on October 22nd, Mr. Ely, I think you said you had a conversation with Bill Robinson.

(Testimony of L. E. Ely.)

A. Yes.

Q. Is that right? A. Yes.

Q. And you also told us on your direct examination that you stated during that conversation, or rather you asked during that conversation why Mr. Andrade was not in the lint room be- [1215] cause that is where he had always been so far as you had observed, or something to that general effect.

Do you remember that? A. Yes.

Q. Can you give us that statement again, your statement to Mr. Robinson?

A. Well, I asked him why George wasn't in the lint room, that I knew he had been in there as far as I knew ever since he had been in there and he said, "Haven't you heard——"

Q. (Interrupting): Now, just a minute.

I move that that go out. I didn't ask for that. I asked him what his statement to Mr. Robinson was and if that is completed——

Trial Examiner Lindsay (Interrupting): Yes, that may go out.

Mr. Clark: May I have it read back, now?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark) How long had that been, please, Mr. Ely, that you had been at the plant and observed what Mr. Andrade was working at?

A. Since 1936.

(Testimony of L. E. Ely.)

Q. Yes.

Didn't you know that from the middle of July 1938 on up [1216] to the very time you were discussing this with Mr. Robinson that Mr. Andrade had been sewing sacks and had not been in the lint room?

A. I knew he swapped jobs with a fellow, temporary.

Q. You knew that he swapped jobs with Mr. Wingo, is that right? Was that it, Wingo; or am I incorrect in that?

A. Boyd Ely.

Q. With Boyd Ely. In other words, with your brother, isn't that right?

A. That is right.

Q. And you knew that Boyd Ely had gone into the lint room and that George Andrade had commenced sewing sacks along in the middle of the previous July, is that not correct?

A. That is right.

Q. I think you told us also that you were getting 35 cents an hour as a press helper up until some time in latter November of 1938. Was that your testimony?

Mr. Mouritsen: May I have the question read? I lost track of it.

Trial Examiner Lindsay: Yes. Read the question.

(The record referred to was read by the reporter, as set forth above.)

(Testimony of L. E. Ely.)

Mr. Clark: That is wrong. I will ask that it go out, Mr. Examiner.

Trial Examiner Lindsay: Yes. That may go out. [1217]

Mr. Clark: I misplaced a card here that I had.

Q. You were working as a press helper, weren't you, Mr. Ely, up until the last part of October of 1938?

A. Something like that. I don't exactly remember the exact date.

Q. Up until some point in the month of October of last fall, is that not correct?

A. Yes. [1218]

Q. All right.

And then you became the head pressman on this particular gin, is that correct? A. Yes.

Q. And for how long did you continue in that job, if you please, just as nearly as you remember?

A. About two weeks.

Q. And then when the man who had formerly held the head pressman's job came back to work, you resumed your position as press helper, is that correct? A. Yes.

Q. Now, it is true, isn't it, that while you were a press helper, you got 35 cents an hour?

Mr. Mouritsen: I object to that on the ground it is vague and indefinite. The witness, I believe, testified to two periods as a press helper, but he received different rates of pay.

Mr. Clark: I am only concerned with this last period, Mr. Examiner. I think the question is so limited—October of 1938.

(Testimony of L. E. Ely.)

Trial Examiner Lindsay: With that explanation, he may answer.

I would like to have the question read back.

Mr. Clark: I will reframe it, Mr. Examiner, because it is rather garbled now. [1219]

Q. Will you please tell us, Mr. Ely, whether or not you received 35 cents an hour as a press helper at the time you were working at that position in October of 1938, and immediately prior to your becoming the head pressman on that particular gin?

A. I was receiving 40.

Q. You are sure you were receiving 40 cents an hour as press helper just before you became head pressman?

A. Absolutely.

Q. All right.

And then do I understand that when you were working as head pressman, you still received 40 cents?

A. Yes.

Q. And then at the end of the two weeks period when the head pressman came back to work and took his position, you became press helper again, is that correct?

A. Yes.

Q. And then did you receive 35 cents an hour from that time on?

A. I did for one week. I only received one check at 35 cents per hour.

Mr. Clark: All right.

Trial Examiner Lindsay: Now, we have to adjourn—off the record.

(Discussion outside the record.) [1220]

Trial Examiner Lindsay: We will adjourn until 9:30 tomorrow morning.

(Whereupon, at 1:55 o'clock P. M., May 31, 1939, the hearing was adjourned to 9:30 o'clock A. M., Thursday, June 1, 1939.) [1221]

American Legion Hall,
Corcoran, California,
Thursday, June 1, 1939.
9:30 o'clock a. m. [1222]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Respondents are ready, Mr. Examiner.

Mr. Mouritsen: Ready for the Board.

Mr. Clark: May I have the last Exhibit number of the Boswell Exhibits, Mr. Examiner?

Trial Examiner Lindsay: Number 8, I am sure.

Mr. Clark: I think Mr. L. E. Ely was on the stand.

Mr. Mouritsen: Mr. Examiner, may the reporter note the appearance of William R. Walsh, Regional Attorney for the Twenty-first Region as counsel for the Board?

Trial Examiner Lindsay: Yes.

L. E. ELY,

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Cross Examination

(Continued)

Mr. Clark: At this time, Mr. Examiner, I will ask that four cards, which I am handing the reporter, being purportedly weekly time cards of the J. G. Boswell Company, be marked for identification as Respondent Boswell's Exhibit 9-A, B, C and D for identification.

(Thereupon, the documents above referred to were marked as Respondent Boswell Company's Exhibits Nos. 9-A, 9-B, 9-C and 9-D respectively for identification.)

(The documents referred to were passed to Mr. Mouritsen). [1224]

Q. (By Mr. Clark) Now, Mr. Ely, directing your attention to the time you returned to work at Boswell's in October of last fall, that is 1938, I will ask you whether or not you commenced work after that time on the day the oil mill opened, or commenced running?

A. I think I did.

Q. All right.

Now, I want to show you Respondent Boswell's Exhibit 9-A for identification, which is purportedly a weekly time card in your name for the week end-

(Testimony of L. E. Ely.)

ing October 27th, 1938, and first, let me ask you this question: I am correct in stating, am I not, that the week at Boswell's during the time you were working there ended on Thursday? A. Yes.

Q. Is that correct? A. Yes.

Q. All right.

Now, will you please examine this Exhibit, and particularly the entry under the letter "M", you see, and the rate of pay indicated opposite that entry, and tell us whether or not that refreshes your recollection as to the hourly rate of pay you received as a pressman's helper upon first going back to work at the mill in October of 1938?

A. (Examining document) My check was for 40 cents an hour.

Q. Well, was there anything indicated on your check to show [1225] that it was at a straight 40 cents an hour, so far as you remember?

A. Well, I always kept the amount of hours I worked, and I knew how much I was getting paid.

Mr. Mouritsen: May I ask a question on voir dire?

Mr. Clark: Yes, certainly.

Voir Dire Examination

Q. (By Mr. Mouritsen) Mr. Ely, do you make out these cards? Have you ever seen this card before that has been marked Respondent Boswell's 9-A for identification? A. No.

Q. And do you know—do you make them out yourself? A. Not like this.

(Testimony of L. E. Ely.)

Q. Well, do you make this particular card out that has been marked 9-A for identification?

A. No.

Q. And you have never seen it before?

A. No.

Q. You don't know who made these entries on the card at all? A. No.

Q. Any of them? You did not sign the card?

A. No.

Q. You don't know who put the initials down in the lower right-hand corner? A. No. [1226]

Q. Nor the figures on the right-hand side of the page, or the figures along the top of the page, is that correct?

A. I know nothing about it.

Mr. Mouritsen: That is all.

Cross Examination

(Continued)

Q. (By Mr. Clark) Now, you do know, don't you, Mr. Ely, that the letters "G. L. H." are Gordon Hammond's initials? A. I do.

Q. Yes.

And don't you also know that this card is in Mr. Gordon Hammond's handwriting? A. No.

Q. All right.

Do you keep some record, or did you while you were employed at the plant keep some record of your time each day which you handed in to Mr. Hammond or to the main office? A. Yes.

Q. And how was that kept by you, please, on a slip of paper? A. On a time card. [1227]

(Testimony of L. E. Ely.)

Q. On the time card? A. Yes.

Q. And then am I correct in stating that you handed your time card into the office at the end of the work day? A. Yes.

Q. All right.

And then I suppose on the next day you took the same card and made the same entry on it, or was it a new card?

A. It was a new card.

Q. All right.

So far as this particular card which I am showing you and which has been marked Respondent Boswell's 9(a), you didn't make that up?

A. No.

Q. All I am asking you, Mr. Ely, is whether or not an examination of the entries on this card which is marked Boswell's 9(a) for identification refreshes your recollection as to your status on the first day you returned to work on October 1938, and the rate of pay that you received on that day.

Mr. Mouritsen: I object to that as already asked and answered.

Trial Examiner Lindsay: Sustained; but off the record a moment.

(Here followed discussion off the record.)

Trial Examiner Lindsay: You may proceed. [1228]

Mr. Clark: The objection was sustained to the question.

Q. Do you remember the date—withdraw that.

(Testimony of L. E. Ely.)

I am correct in stating, am I not, Mr. Ely, that the exact date on which you returned to work at Boswell's during October 1938 was October 24th, the day the mill opened?

A. On or about that.

Q. All right.

And am I also correct in stating that you worked one day as pressman's helper?

A. I don't remember just how many days I worked as a helper.

Q. All right.

And then because of Mr. Briley's illness, you took the head pressman's job, is that right?

A. Yes.

Q. Now, I want also to show you the card which has been marked Respondent Boswell's 9(b) for identification, and I will ask you to examine it and direct your attention particularly to the entry under the letter "T" on that card and ask you whether that refreshes your recollection as to the date on which you went back to the job of pressman's helper?

A. (Examining card) I don't remember the exact date.

Q. Well, am I correct in stating that it was on or about November 3rd of 1938 that you resumed the position or status of pressman's helper?

A. Possibly on or about that date. [1229]

Q. And from that time on as I understand it you continued in that job until you left the company?

A. Yes, sir.

(Testimony of L. E. Ely.)

Q. And from that time on you received your pay at the rate of 35 cents an hour, is that true?

A. No.

Q. Well, what was your rate of pay from that time?

A. I received one check for 35 cents an hour and the last check I drewed was for 40 cents an hour after I talked to Tommy Hammond on Saturday.

Q. When was that, please?

A. On or about November 12th.

Q. Now, in that connection I will show you a card which has been marked Respondent Boswell's 9(d) for identification for the week ending—the time card for the week ending November 17th, and I will direct your attention to the rate of pay indicated on that card and ask you whether that refreshes your recollection with respect to the last answer you gave?

Mr. Mouritsen: May I ask one or two questions on voir dire?

Mr. Clark: So far as I am concerned.

Trial Examiner Lindsay: All right. [1230]

Voir Dire Examination

Q. (By Mr. Mouritsen) Have you ever seen this card before, Mr. Ely, that has been marked Respondent Boswell's 9-D for identification?

A. (Examining card) No.

Q. You don't know who put the figures on it, is that correct?

A. Yes.

(Testimony of L. E. Ely.)

Q. I mean, you don't know who put them on?

A. No, I don't.

Mr. Mouritsen: Well, I will object to the examination of the witness on such an Exhibit regarding the document about which he has no knowledge, and that he hasn't seen before.

Mr. Clark: I am not examining him on that Exhibit or document, Mr. Examiner. I am first giving him the opportunity to refresh his recollection, if he can, from an examination of the document, and then I am simply asking him questions from data I get from it.

Trial Examiner Lindsay: You may proceed.

Cross Examination

(Continued)

Q. (By Mr. Clark) Do you have the question in mind, Mr. Ely?

Trial Examiner Lindsay: Read the last question, please.

Mr. Clark: I will withdraw it and re-frame it, Mr. Examiner.

Q. Let me ask you, Mr. Ely, whether after looking at the card marked Respondent Boswell's 9-D for identification, your [1231] recollection is refreshed as to whether or not you only received one check at the wage rate of 35 cents per hour?

A. Yes, that is all; one check.

Q. Now, in that connection let me show you the card marked Respondent Boswell's 9-C for identi-

(Testimony of L. E. Ely.)

fication, which is purportedly the time card for the preceding week, namely November 10th, 1938, and I specifically direct your attention to the wage rate indicated on that card, and I will then ask you whether or not this card refreshes your recollection as to whether or not you only received one check at the wage rate of 35 cents an hour after you resumed the position of pressman's helper?

A. (Examining card) If November 10th was on Thursday, 1938——

Q. (Interrupting): Yes.

A. (Continuing) ——well, it was on the 12th, the next Saturday, when I received my check, and that was for 35 cents per hour.

Q. All right.

Now, how about the following week which—in which Thursday was November 17th and for which you received your check on the following Saturday? Wasn't that also for 35 cents an hour?

A. No.

Q. You are sure of that?

A. Positive. [1232]

Q. All right.

And you are looking at Respondent Boswell's 9-D for identification when you make that statement; is that true? A. Yes.

Q. All right.

Now, did I understand on your direct examination, Mr. Ely, that you testified you left your employment on November 14th, 1938? A. Yes.

(Testimony of L. E. Ely.)

Q. How do you fix that date in your mind at this time?

A. Well, it is the day I went to see the doctor and he lanced my thumb. I won't forget that for a long time.

Q. You remember the specific date, do you?

A. I do.

Q. All right.

Let me show you again the card marked Respondent Boswell's Exhibit 9-D for identification, being purportedly your weekly time card for the week ending Thursday, November 17th, 1938, and specifically indicating or directing your attention to the entry under the letter "W", which would be November 16th, 1938, and I will ask you whether or not that refreshes your recollection as to the last day upon which you worked for Boswell and Company on the occasion of this period of employment?

A. (Examining card) I didn't receive my check until Saturday, [1233] and I think it was on November 14th—it was on a Monday or Tuesday of 1938, and I didn't receive my check for Friday and Saturday and that Monday's work until the next Saturday.

Q. Well, didn't you actually work two hours on Wednesday, November 16th?

A. No, that was on the 14th.

Q. All right.

And didn't you actually work ten hours on Tuesday, November 15th?

(Testimony of L. E. Ely.)

Mr. Mouritsen: I object to this examination on the ground it is for impeachment. It is impeachment on an immaterial point, the matter of two or three days.

Mr. Clark: I will submit it. I am just asking him the question.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark) Do you have your question in mind?

A. November 14th, to the best of my recollection, was the last day I worked for J. G. Boswell Company. [1234]

Q. (By Mr. Clark) The thing I am asking you is this: Didn't you work ten hours for the company as pressman's helper on Tuesday, November 15, 1938?

Mr. Mouritsen: I will object to that as already asked and answered.

Mr. Clark: He didn't answer the question.

Mr. Mouritsen: If a man states he worked last on November 14th, he couldn't have gone to work on November 15th.

Mr. Clark: I would like to have an answer to the question. I didn't get it answered before.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Now, as a matter of fact, during this last week which you worked at Boswell's, Mr. Ely, you did some work loading cotton instead of as pressman's helper, is that not right?

A. I don't think so. I could possibly have done it.

(Testimony of L. E. Ely.)

Q. Do you remember working one 10-hour day at loading cotton instead of as a pressman's helper?

A. I don't remember.

Q. Now, directing your attention to the conversation which you said on your direct examination you had with Mr. Bill Robinson on October 22nd of 1938, let me ask you, Mr. Ely, how you fix that date in your mind?

A. Well, it was just a day or two or so after I went to work, or possibly the same day I went to work. [1235]

Q. Well, don't you remember it was two days before you went to work?

A. I said on or about October 22nd.

Q. I see.

Well, at the time you had this conversation with Mr. Bill Robinson the oil mill was not running, was it? It hadn't started up?

A. Yes; it started up the day I went to work, I think.

Mr. Clark: Now, may I have the question read back, Mr. Examiner. I don't think he understood it.

Trial Examiner Lindsay: Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I move that that go out as not responsive. I don't think that the witness caught the object of my question which was the time of the

(Testimony of L. E. Ely.)

Robinson conversation and not the date he started to work.

Mr. Mouritsen: I object to the question upon the ground it is confusing.

Mr. Clark: All right. I will withdraw it and reframe it.

Q. Let me ask you, Mr. Ely, whether it isn't a fact that at the time you had this conversation with Mr. Robinson, that is, Mr. Bill Robinson, on October 22nd of 1938, the oil mill had not yet started up for the season? [1236]

Mr. Mouritsen: I object upon the ground it assumes facts not in evidence and it is contrary to the prior statement of the witness. It is confusing and misleading.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) I think you told us a while ago that according to your best recollection the oil mill started up on the day you commenced work?

A. Yes.

Q. All right.

And do you now remember that the day you commenced working was October 24th?

A. No, I don't remember.

Q. All right.

Are you positive that the conversation you testified to on your direct examination with Mr. Bill Robinson took place on October 22nd?

A. On or about that date.

Q. All right.

(Testimony of L. E. Ely.)

Did that conversation take place a day or so before the oil mill started? A. No.

Q. Well, when did it take place with respect to the starting of the oil mill?

Mr..Mouritsen: I object to that as already asked and answered. [1237]

Mr. Clark: Well——

Trial Examiner Lindsay (Interrupting): He may answer.

The Witness: I started work the day the oil mill opened up and that was the date, to the best of my recollection, we had the conversation.

Mr. Clark: I see.

Q. So that if the oil mill started on October 24th, it wasn't the 22nd that you had this conversation with Robinson, was it?

A. It was on or about that date. I don't remember what day I started.

Q. How did you arrive in your own mind in fixing the date of October 22nd when you gave that testimony on direct examination?

A. Well, I just—I was down in Texas on vacation and I received a wire from my brother stating that the oil mill was going to start and for me to be there, so I came back and it was on the 15th day of October when I arrived here. It was about a week later before I went to work.

Q. And so did you, in going over your testimony preparatory to taking the stand in the case, just arbitrarily fix October 22nd as the date of this conversation?

(Testimony of L. E. Ely.)

Trial Examiner Lindsay: He didn't fix October 22nd. He said on or about.

Q. (By Mr. Clark) Who, if anyone, suggested the date [1238] October 22nd to you?

A. No one.

Q. You discussed your testimony with Mr. Mouritsen and Mr. McTernan prior to your going on the stand, didn't you?

A. Some of it, yes.

Q. And didn't you give these gentlemen a statement some weeks ago as to what you were going to testify to?

Mr. Mouritsen: That will be stipulated to.

Mr. Clark: Please let the witness answer. After all, it bears on his credibility.

May I have an answer? May I have the question answered?

Trial Examiner Lindsay: Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Is there an objection to that?

Mr. Clark: There is a stipulation that the statement was given.

Mr. Mouritsen: In what way does it bear on his credibility?

Mr. Clark: I will submit it.

Trial Examiner Lindsay: You may proceed. There is a stipulation as to the fact.

(Testimony of L. E. Ely.)

Mr. Clark: Very well.

Q. And did you likewise relate these events to which you testified yesterday on your direct examination to Mr. Mouritsen [1239] and Mr. McTernan as much as a month ago?

A. No, not that I remember.

Q. And, Mr. Ely, did you likewise relate the events to which you testified yesterday on your direct examination to Mr. Howard, an investigator for the National Labor Relations Board, when he was here in January of this year?

Mr. Walsh: I object to this line of inquiry upon the ground it is highly argumentative, not material to any of the issues being tried in this case.

Trial Examiner Lindsay: Sustained. I think we have gone far enough.

Mr. Clark: Very well.

Q. You were injured on or about the 6th of November of 1938, I believe you said? A. Yes.

Q. Did you report that injury to anyone at the plant immediately upon its occurrence?

Mr. Mouritsen: That is objected to as being incompetent, irrelevant and immaterial.

Mr. Clark: It was all gone into on direct examination. I certainly have a right to cross examine on it.

Trial Examiner Lindsay: You may proceed. You may have an exception.

Do you understand the question?

The Witness: I didn't report that day because

(Testimony of L. E. Ely.)

it was only a scratch. I didn't think it would amount to anything. [1240]

Q. (By Mr. Clark) Well, when did you report your injury to anyone, anyone employed at the Boswell plant?

A. I think it was on the 9th; on the 9th of November.

Q. I see.

Now, when was it that you ceased work pursuant to the doctor's order?

A. The 14th of November, 1938.

Q. Did you receive Workmen's Compensation—payments, rather, under the Workmen's Compensation Act of this State on account of that injury?

A. I received it for two days.

Q. How long?

A. Two days.

Q. And for what two days was that?

A. I don't know; somewhere between the 14th and the 2nd of December.

Q. I see.

Now, is that all the compensation you applied for? A. No; that is all I received.

Q. How did you go about applying for compensation? Did you do anything personally about it yourself? A. No.

Q. You simply left that up to the Company, is that right?

A. To the Company and the doctor.

(Testimony of L. E. Ely.)

Q. And your doctor's name is what, again? [1241]

A. Edmonds.

Q. Now, Mr. Ely, let me direct your attention to the times of your employment by the Boswell Company during the spring of 1938.

I am correct in stating, am I not, that you worked from early January, 1938, until on or about the week ending March 10th of 1938 at the Boswell plant? A. Yes.

Q. And what different jobs did you hold at that time, or did you work at during that time?

A. Well, I cleaned up the gins; swept the gin roof down, hauled sand, loaded cotton, hauled cotton and just first one thing and another that needed to be done.

Q. I see.

In other words, you did whatever odd jobs were necessary to be done around the plant, is that right?

A. Yes.

Q. Now, am I likewise correct in stating that you were laid off on or about the 10th of March, 1938? A. Yes.

Q. And when was it, if you remember, that you were again employed at Boswell's?

A. I am not positive, but I think it was in June.

Q. In June.

Well, wasn't it the week ending May 5th of '38? [1242]

A. It could have been. I don't remember.

Q. In other words, weren't you off about a

(Testimony of L. E. Ely.)

month and a half, that is, half of March and all of April? A. I think so.

Q. All right.

Now, assuming—withdraw that.

Irrespective of whether it was May or June, will you tell us about how long you worked on that occasion? A. Two weeks.

Q. I see.

And what kind of work did you do?

A. Chasing lint.

Q. And that was while the oil mill was running, wasn't it? A. Yes.

Q. And then you were laid off again, I take it?

A. Yes.

Q. Now, was it at that time that you took your trip back to your home in Texas? A. No.

Q. When were you next employed at Boswell's?

A. Either the latter part of June or in July. I don't remember.

Q. Well, wasn't it—didn't you go back to work at Boswell's on July 1st, 1938?

A. It could have been. I don't remember the date. [1243]

Q. All right.

And did you then work for the period of three weeks in July, about?

A. I don't remember just how long I worked.

Q. Well, were you laid off again toward the last of July? A. Possibly.

Q. For the period of a week?

(Testimony of L. E. Ely.)

A. I don't remember.

Q. All right.

What was your job at Boswell's during the period from on or about July 1st, 1938, to whenever it was that you were again laid off?

A. I was baling straw.

Q. Baling straw? A. Yes.

Q. And anything else that you were doing?

A. Not at that time.

Q. Now, where was it with respect to the cotton, or the cotton seed operation in the plant that you did this straw baling?

A. The Dallas schoolhouse between here and Hanford.

Q. In other words, that was not on the property we have all spoken of in this case as being the Boswell property, that is where the plant is, and the gins?

A. It is not their property that I know of. [1244]

Q. I think you misunderstood my question.

This straw baling you did was not at the plant where the gins are located here in Corcoran?

A. No.

Q. All right.

Do you remember how long you worked at straw baling?

A. No, I don't remember just how long I worked.

Q. Well, is three weeks about right?

A. It seemed like it was longer than that. I don't know.

(Testimony of L. E. Ely.)

Q. All right.

Now, when you were—you were ultimately laid off, weren't you? That job ultimately ran out, isn't that true?

A. The straw baling, yes.

Q. Then were you laid off for a short period of time? A. Yes.

Q. All right.

When were you next re-employed by Boswell's?

A. It was in October of 1938.

Q. Well, are you sure that you weren't re-employed for a period of a few days or a week in August of '38?

A. I don't remember. I could have been.

Q. All right.

You do remember being employed there in October, then? A. Yes.

Q. And that is the period—that is the time that you worked—[1245] from October, around the 24th of October of 1938, up until, as you testified, about the middle of November? Is that true?

A. Yes.

Q. During that time, you held a job as pressman's helper and also as the head pressman at one of the gins? A. Yes.

Q. And did you also do some loading of cotton at that time?

A. Well, I could have early in the morning before the cotton came in to the gin. I don't remember now.

(Testimony of L. E. Ely.)

Q. Well, did you work some short days during that period of time, that is, less than 12 hours?

A. I think so.

Q. And that was due, wasn't it, to their not being enough cotton for the gins to handle on those days?

A. That was on account of wet weather.

Q. I see.

Now, did you take a trip back to your home during the fall of 1938?

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: It is preliminary. Withdraw it.

Q. Did you take a trip away from Corcoran or the State of California during the year '38, during the fall of '38?

A. Yes.

Q. And when was that, please?

A. I left Corcoran on October 1st, 1938. [1246]

Q. October 1st?

A. Yes.

Q. And where did you go?

A. Texas.

Q. That is your home State, isn't it?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: Submit it.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark) Is that right?

A. Yes.

Q. All right.

How long were you gone?

A. Fifteen days until the time I returned.

Q. And while you were in Texas, did you write Mr. Gordon Hammond a letter asking for re-em-

(Testimony of L. E. Ely.)

ployment at the Boswell plant here? A. No.

Q. You are you sure of that? A. Positive.

Q. Did you get in touch with Mr. Hammond in any way while you were down in Texas requesting re-employment at the plant? A. No.

Q. How did you happen to come back to Corcoran?

A. Well, I just went down on a vacation. I didn't intend to stay. [1247]

Q. Well, did you do anything at all while you were down in Texas on this vacation, as you have described it, in an effort to gain re-employment or to get re-employment at the Boswell plant here in Corcoran? A. No. [1248]

Q. Did you receive word—I think you said on your cross examination a while ago that your brother wrote you the oil mill was about to start?

A. He wired me.

Q. I see.

And was that pursuant to some arrangement you had had with him before you went? A. No.

Q. In other words, you were down there in Texas and on a given day you got a wire from your brother to the effect that the mill was going to start up here at Boswell's, is that true? A. Yes.

Q. And then didn't you get ahold of Mr. Gordon Hammond by either letter or wire? A. No.

Q. Did you simply come back to Corcoran?

A. Yes.

Q. And then did you go and apply to Mr. Gordon Hammond for a job? A. Yes.

(Testimony of L. E. Ely.)

Q. And where did you see him, please?

A. It was down in the plant somewhere. I think it was either Gordon or Tommy. I don't remember which.

Q. You have no recollection as to who it was as between [1249] Gordon and Tommy, isn't that true?

A. Yes.

Q. As a matter of fact, you know it was Gordon?

A. I am not positive.

Mr. Mouritsen: Objected to as argumentative.

Q. (By Mr. Clark) You applied for the job?

A. Yes; at that time, yes.

Q. And you were given a job?

A. About a week later.

Q. When was it you left again for Texas?

Mr. Mouritsen: This is objected to as asked and answered.

Trial Examiner Lindsay: Sustained. You have gone over that.

Mr. Clark: I would like to clear it up, Mr. Examiner. I think I can do it this way:

Q. Will you fix for us as nearly as you can, Mr. Ely, when it was you applied for a job at Boswell's on this occasion, that is, during October, 1938?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained. You may proceed.

Mr. Clark: That is all. I will take the ruling on that. [1250]

Trial Examiner Lindsay: Do you want this witness any more?

Mr. Mouritsen: No, he may be excused, Mr. Examiner, so far as the Board is concerned.

(Witness excused.)

Mr. Mouritsen: Mr. Examiner, at this time we propose to call the witness Gilmore, and that is if counsel for the respondent would desire to file the answer for that.

Mr. Clark: We would, Mr. Examiner, if we may have a moment to glance through it.

Trial Examiner Lindsay: Yes.

Mr. Clark: May the record show, Mr. Examiner, that I am handing counsel for the Board one copy of the answer, likewise Mr. Prior one copy; this being the answer of the Associated Farmers of Kings County.

Mr. Walsh: Off the record.

Trial Examiner Lindsay: Off the record.

(Here followed discussion off the record.)

Trial Examiner Lindsay: On the record.

Mr. Clark: I would like the record to show I am handing the Examiner the original and three copies of the answer of the Associated Farmers of Kings County to the amendment to the amended complaint.

May this be off the record, Mr. Examiner, and Mr. Walsh? [1251]

Trial Examiner Lindsay: Off the record.

(Here followed discussion off the record.)

Trial Examiner Lindsay: On the record.

Mr. Walsh: May we have a five-minute recess?

Trial Examiner Lindsay: Yes, we will take a ten-minute recess.

(At this point a short recess was taken, after which the hearing proceeded as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Wingrove: Mr. Examiner, at this time I hand you an original and three copies of the answer of the respondent J. G. Boswell to paragraph 8 of the amended complaint as amended.

I also hand you for filing the original and three copies of the answer of the respondent Corcoran Telephone Exchange to paragraph 8 of the amendment as amended, and the original shows that each of the copies was filed on the parties to the proceeding.

Unfortunately, I didn't make a copy for the respondent on the other side, but I understand that the copy goes to them.

Mr. Clark: May I ask that the original answer of the Associated Farmers of Kings County to the amendment to the amended complaint which has been just offered for filing be likewise marked as an exhibit immediately following the last [1252] number in the formal file?

Trial Examiner Lindsay: Yes.

Mr. Walsh: I think it would be probably appropriate to offer these as part of the formal papers at this time.

Mr. Clark: I want this marked, say, (A), the last letter of the number, so it will come in order there.

Trial Examiner Lindsay: Yes. They will become part of the Board's Exhibit, which is the formal exhibit. I believe the last is, as I recall it, double J. Therefore, it will follow that these will be marked as the next letter.

Mr. Walsh: I think probably at this time I should offer in evidence as Board's Exhibit 1-KK the answer of the Associated Farmers of Kings County, Inc., to the amendment to the amended complaint. That would be 1-KK.

And offering as 1-LL the answer of the respondent Corcoran Telephone Exchange to paragraph 8 of the amended complaint as amended.

And 1-MM, the answer of the respondent J. G. Boswell Company to paragraph 8 of the amended complaint as amended.

Do you have copies?

Trial Examiner Lindsay: I have copies of one of them.

Mr. Walsh: Here is the Boswell and here is the Exchange. Which ones don't you have, if any?

Trial Examiner Lindsay: The Farmers' Association.

Mr. Walsh: All right. [1253]

(The document referred to was passed to
Trial Examiner Lindsay.)

Trial Examiner Lindsay: That is the one I don't have, and this one I do have. (Indicating)

As part of Board's Exhibit, formal exhibit, KK, LL, MM, are received in evidence.

(Thereupon the documents above referred to were received in evidence and marked Board's Exhibits 1(KK), 1(LL), and 1(MM).)
Mr. Mouritsen: Mr. Gilmore.

JAMES WILLIAM GILMORE,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

(At this point the testimony of the witness James William Gilmore as given May 25, 1939, was read by Mr. McTernan, as follows:)

“Direct Examination

“Q. (By Mr. McTernan) Will you state your name and address for the record, please?

“A. James William Gilmore.

“Q. And your address?

“A. Box 203, Corcoran. [1254]

“Q. (By Mr. McTernan) Were you ever employed by the J. G. Boswell Company?

“A. I was.

“Q. When were you first employed?

“A. In July, 1928.

“Q. I see.

“How long were you employed starting in July, 1928?

(Testimony of James William Gilmore.)

“A. Well, I worked for them up until July, I believe, in '30.

“Q. July in '30.

“Was that right straight through without any breaks?

“A. Practically. Maybe a week or something like that.

“Q. Then you left there in July, 1930, you stated? A. I did.

“Q. And did you ever come back again to the Company?

“A. In '31, some time in September.

“Q. And how long did you work, starting in September, 1931, for the J. G. Boswell Company?

“A. Practically ever since that time up until this last year.

“Q. Up until this last year.

“Can you place that more definitely?

“A. Well, it was one or two summers there that I think we were off. There wasn't nothing to do.

“Q. I didn't mean that, Mr. Gilmore. [1255]

“You said you worked up until——

“A. (Interrupting): Oh, until '38.

“Q. When in 1938?

“A. I think the mill shut down somewhere in the latter part of March or the first of April. I don't recall the exact time.

“Q. All right.

(Testimony of James William Gilmore.)

“Now, go back again starting with 1931 in September when you went back to work. At what type of work were you employed?

“A. Well, I was working in the lint room. Part of the time I was running linters and part of the time I was working at what they call chasing lint.

“Q. How long did that last?

“A. I worked in there until I think I went in the seed house in '36.

“Q. You worked in the lint room until 1936? A. Yes, sir.

“Q. Can you place that more definitely in 1936?

“A. Well, now, I can't get the date on it, no.

“Q. An approximation?

“A. It was some time along after the gin season started in '36 that I went into the seed house.

“Q. And how long did you stay in the seed house?

“A. Up until we got through running this last season [1256] in '38.

“Q. That is, you testified in the spring of 1938? A. Yes.

“Q. Were you in the seed house or the lint room during those periods you testified to for the whole period? Were there any breaks? Any other type of work you did?

(Testimony of James William Gilmore.)

“A. Well, sometimes when the mill wasn’t running we would repair. We would paint, clean up. Sometimes we would cut weeds, first one thing and then another.

“Q. When you refer to the mill, what do you refer to? A. The oil mill.

“Q. The oil mill? A. Yes.

“Q. When the oil mill wasn’t running, you were doing odd jobs around the plant?

“A. Yes.

“Q. And you were steadily employed then for the last four years up until 1938 in the spring?

“A. The last two or three years I was. In the last part of ’37, I painted. I was painting up until the mill started again.

“Q. Well, now, prior to the time you left the employ of the J. G. Boswell Company in the spring of 1938, did you engage in any Union activities? A. I did. [1257]

“Q. Of what did they consist?

“A. Well, the first thing I started to do was trying to organize a Union.

“Q. Wait a minute.

“Can you place that by date or month?

“A. I can’t, because I——

“Q. (Interrupting): Or year?

“A. It was in ’38.

“Q. 1938?

“A. But in the spring. I didn’t keep any dates.

(Testimony of James William Gilmore.)

“Q. That was before you were laid off?

“A. Yes.

“Q. Go on.

“A. And I talked to the boys, a majority of the boys about that even when I was working there.

“Q. Can you mention any names of the people you talked to?

“A. Why, I talked to Lonnie Spear for one; and I talked to George Andrade, I believe they pronounce it; and Dick White, and I also think I talked to Workman that runs the engine.

“Q. You say a workman?

“A. Workman. That is his last name.

“Q. A man named Workman?

“A. Yes, sir. [1258]

“I talked to all of the boys that I wasn’t afraid of.

“Q. What do you mean “you weren’t afraid of?”

“A. That I wasn’t afraid that they would tell the bosses.

“Q. I see.

“You say that took place in the spring of 1938 before you were laid off?

“A. Yes, it did, along—I started talking to them along in January.

“Q. I see.

“Well, did you do any other organizational

(Testimony of James William Gilmore.)

activities or any activity on behalf of any Union after that time?"

Mr. Clark: That is all there down to line 20 on page 8. You might ask him that question now.

Q. (By Mr. McTernan): Did you hear that last question I read? A. I think I did.

Q. Will you answer it?

A. Yes, I did quite a bit more after that.

Q. Well, could you describe it more definitely?

A. Well, I was down there sometimes two or three times a week all through the summer, and even after we had the Union started I was talking to the boys.

Q. Did you do anything other than talk to the boys?

A. Now, what do you mean? In what way?

Q. Well, did you sign any of them up? [1259]

A. No. I never did sign a one of them up.

Q. Did you ever ask any of them to sign up?

A. I asked them to come to the meetings and hear what it was all about, and what the meanings of it were.

Q. That was the full extent of your Union activity?

A. Yes. I didn't sign any of them up.

Q. You just testified that you did it after the Union started?

A. Yes, after we had the Union started I would go down to the mill sometimes two or three weeks——

(Testimony of James William Gilmore.)

Q. (Interrupting): What was the date? Can you place that date?

A. I didn't keep any dates. It was along through the summer I would go down two or three times a week.

Q. When the Union started, at what time do you place that?

A. What I mean is after they got them started signed up, but the date I couldn't tell you, any dates, because I never paid any attention to the dates.

"Q. Did you ever have any conversation with Mr. Gordon Hammond?

"A. Yes, I did.

"Q. In the year 1938? A. I did.

"Q. Well, when was the first conversation, or what was the—when was the first conversation you had with Mr. Gordon [1260] Hammond in 1938?

"A. It was some time the latter—along in June, I think it was, as near as I can give it to you.

"Q. In June of 1938? A. Yes.

"Q. That is the closest you can come.

"What did you say to Mr. Hammond and what did Mr. Hammond say to you?"

Mr. Clark: This is off the record, Mr. Examiner.

(Discussion outside the record.)

Mr. McTernan:

"Mr. McTernan: Well, I withdraw my last

(Testimony of James William Gilmore.)

question and will place the foundation a little more.

“Q. Was anybody else present at this conversation, Mr. Gilmore?

“A. They were not.

“Q. Where was this conversation held?

“A. The South end of the mill.

“Q. At the South end of the mill?

“A. Yes.

“Q. What mill?

“A. The oil mill of J. G. Boswell.

“Q. All right.

“Now, I will ask you what you said to him, and what he said to you?

“A. Well, he walked up and spoke to me——” [1261]

Mr. Clark: That goes down——

Mr. McTernan (Interrupting): Over to the next page.

“And I asked him what he knew. And he says, ‘About as much as you.’

“I says, ‘That is practically nothing.’

“He said, ‘I thought——’

“He says, ‘I thought you knew quite a bit about trying to start a union.’ ”

Mr. Clark: “I thought you knew quite a bit by trying to start a union.”

Mr. McTernan: “I says, ‘Who said anything about me starting a union?’

“He says, ‘Things get around quite a bit,’ he says. He says, ‘Things get around.’

(Testimony of James William Gilmore.)

“Q. Is that all that was said?

“A. And he wanted to know if I had them all signed up.

“I says, ‘I think I have only about half of them, but I will get all of them before I get through.’

“And he says, ‘I think you will if you keep sneaking around.’

“And I says, ‘I am not sneaking around.’ I says, ‘I will sign you up with the union if you want to come in.’

“Q. Is that all that took place?

“He laughed and walked off and left me.

“Q. After that time did you ever have any further con- [1262] versation with Gordon Hammond? A. Once more.

“Q. When did that take place?

“A. Well, that was after the mill started some time in July.

“Q. 1938? A. 1938.

“Q. And where was this conversation held?

“A. It was held between the main office and the scales office of the J. G. Boswell Company.

“Q. Who was the conversation held with?

“A. G. L. Hammond.

“Q. G. L.?

“A. No. Gordon Hammond.

“Q. Well, will you state what he said to you and what you said to him?

(Testimony of James William Gilmore.)

"A. Yes. I asked him if my work had been satisfactory and he said it had; and I asked him why there wasn't any work for me. And he said there wasn't anything for me to do.

"And I asked him if there was any work for me and he said there wasn't anything to do.

"And I asked him if it was because of the union and he said, 'I wouldn't exactly say that it is.'

"And I asked him if he thought I was in with the union. And he said, 'I have heard you were, but I don't believe every- [1263] thing I hear.'

"Q. (By Mr. McTernan): Now, did you ever have any conversation, Mr. Gilmore, with any of the other Hammonds?

"A. Julius.

"Q. Who was Julius Hammond?

"A. He was the mill foreman that we took orders under at that time.

"Q. You were taking orders from him?

"A. At that time, yes.

"Q. Wait a minute. Let us place this conversation.

"When did this conversation take place?

"A. Well, it was, I think, something around the 1st of July, just before the mill started.

"Q. Before the mill started, you say?

"A. Yes.

(Testimony of James William Gilmore.)

“Q. Well, you weren’t taking orders from him at that time, were you?

“A. I wasn’t working there then, but he was the foreman.

“Q. When you had worked there you say you had taken orders from him?

“A. Yes.

“Q. What kind of orders?

“A. Well, if the mill wasn’t running or anything, even if the mill was running and there was something he wanted you to do, he would come around and tell you to do it.[1264]

“Q. Did you ever go to him to get a job?

“A. Well, several times when we would be shut down I would go if we were off—I would go and find out when we were going to start back to work and what he intended for me to do that season.

“Q. I see.

“Now, this conversation that you spoke of with Mr. Julius Hammond, where did that take place?

“A. In the machine shop at the J. G. Boswell Company.

“Q. And could you give the date of that, or as close an approximation as possible?

“A. Oh, it was a day or so before the mill started and around about the 1st of July of ’38.

“Q. Pardon me?

“A. Around about the 1st of July of ’38.

“Q. Was anyone else present?

(Testimony of James William Gilmore.)

“A. No, not anyone that was close to us. There was a bunch working there, first one thing and another, machinists working, but there wasn’t anyone close to where we were.

“Q. Well, what did he say to you and what did you say to him?”

Mr. Clark: To which we object, Mr. Examiner, upon the ground that the question calls for hearsay, and is not binding on any of the Respondents to this proceeding in as much as there is no authority established from Boswell Company to Mr. [1265] Tom Hammond—it is Julius Hammond—to Julius Hammond to speak for the Respondent with respect to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer.

[1266]

Mr. McTernan:

“The Witness: He asked me what I was going to do for a job. I says, ‘What do you mean?’

“He said, ‘We haven’t anything more to do.’

“I said, ‘Well, I suppose I will do what I have since the mill shut down.’”

Q. (By Mr. McTernan): Mr. Gilmore, do you recall anything further of that last conversation?

A. You mean with Julius?

Q. With Julius Hammond, yes.

Mr. Clark: May I have the last question, please?

(Testimony of James William Gilmore.)

Trial Examiner Lindsay: Yes. Read the last question.

(The record referred to was read by the reporter as set forth above.)

Q. (By Mr. McTernan: I believe you testified, Mr. Gilmore, that you worked up until March 19th for the Boswell Company? A. I did.

Q. Now, have you worked for them since that time?

A. Yes. I think I worked two or three weeks in May.

Q. What was—what type of work did you do?

A. In the seed house. We were running planting seed.

Q. What were your wages, Mr. Gilmore, when you worked for the company during 1937 and 1938? A. 35 cents.

Q. And what hours did you work? [1267]

A. 12.

Q. Did you ever receive any complaints about your work?

A. Not that I have any recalling of; no.

Q. Did you ever receive any compliments upon your work? A. No.

Q. Are you a member of the Union herein involved? A. I am.

Q. When did you join that?

A. Well, now, I can't even tell you the dates on that.

Q. Well, was it the summer of 1938?

A. Yes—no—let us see——(Pause.)

(Testimony of James William Gilmore.)

Q. The fall?

A. Well, I can't tell you. I can't tell you. The only way you can find out is to look at the applications and all, because I don't remember any dates on any of it.

Q. Since May 1938 have you been employed at all?

A. Yes, I have this winter.

Q. How long?

A. Well, something around 6 months, I think; close on to it; maybe not exactly that long a time.

Q. Where did you work?

A. Union High School in Corcoran.

Q. Could you tell us how much you earned in that period?

A. Yes, sir; because I went up and had the bookkeeper to look it up for me. I earned \$488.90.

Q. Have you earned any other money from May 1938 to the [1268] present date?

A. No, I haven't.

Q. If the National Labor Relations Board should order your reinstatement with back pay, Mr. Gilmore, would you be willing to accept work with the J. G. Boswell Company?

A. Yes, I would.

Mr. McTernan: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Gilmore, what kind of work was it you did on the Union High School?

A. I were helping carpenters.

Q. A carpenter's helper?

A. Yes.

(Testimony of James William Gilmore.)

Q. And do I understand that you have been employed in that capacity steadily for the past six months?

A. No, not steadily, because sometimes we wouldn't have anything to do. That was off and on.

Q. I see.

But over the period of the last six months, is that right? A. Yes.

Q. Now, when was it that you first went to work for Boswell's? A. In 1928, in July.

Q. And what had been your occupation prior to that time? [1269]

A. Well, sir, when I first went there I done some ginning; I tied out; I worked at——

Q. (Interrupting): I mean before you ever went to Boswell's.

A. Oh, before I went to Boswell?

Q. Yes.

A. I had been working at gins and oil mills ever since I was 13 years old, if that covers it.

Q. In this state?

A. In this state and out of the state, yes.

Q. Well, where did you work out of the state?

Mr. McTernan: I object to that, Mr. Examiner——

Mr. Clark (Interrupting): Withdraw it.

Q. Where did you work in this state, Mr. Gilmore, just prior to the time you went to work for Boswell?

Mr. McTernan: I object to that, Mr. Examiner; incompetent, irrelevant and immaterial.

(Testimony of James William Gilmore.)

Mr. Clark: I will submit that.

Trial Examiner Lindsay: Well, he may answer.

The Witness: Well, I used to gin for the Globe Mill Company in El Centro—Brawley. I worked for J. A. Harris in Brawley.

Q. (By Mr. Clark) Imperial County?

A. Yes.

Q. And was that the job you held just before you came up here and went to work for Boswell? [1270]

A. Well, not, not just before because it was in the summer and we had nothing down there to do. I was out on—I wasn't doing practically anything then. I was out in Indio, in the Coachella Valley.

Q. What were you doing up there?

A. I was working on a truck there then.

Q. I see.

So far as the job in any cotton gin or cottonseed oil mill is concerned, do I understand that the one that you held just before you came to work for Boswell's was this down at Brawley.

A. Imperial.

Q. Imperial County? A. Yes.

Q. And what was the name of that firm again?

A. I worked for J. A. Harris then.

Q. Would that be the summer and early fall of 1928?

A. No, I don't think—I think when I worked for them last I worked in the cotton mills, I be-

(Testimony of James William Gilmore.)

lieve, for Harris—I wouldn't recall whether it was '21 or '22.

Q. Well, the thing I am after is this, just briefly: Did you work around cotton gins or in any cottonseed oil mill at all in the year 1927?

A. No.

Mr. McTernan: I object to that on the ground it is too [1271] remote.

Mr. Clark: It is answered. I am going to abandon it there if the answer may stay.

Trial Examiner Lindsay: The answer may stay in. Proceed.

Mr. Clark: All right.

Q. How long did you work for Boswell in 1928?

A. Well, I worked for them, that is, practically all the work I did until I left here in '30; maybe a week or so, two weeks, something like that. I worked for them all the rest of the time.

Q. Well, do you mean you worked for the Boswell Company in 1928? A. Yes.

Q. Which is what we are talking about, and you mean up until 1930 all the time except for a few weeks? A. Yes, sir.

Q. Well, as a matter of fact, Mr. Gilmore, weren't you laid off all during the summer?

A. No, sir, I was not. We went to McFarland and built a gin in '39.

Q. I am talking about '28.

A. '28—I didn't start in until July and we worked clear on through. How could I be laid

(Testimony of James William Gilmore.)

off all the summer when I didn't start until July? [1272]

Q. Well, let us talk about the summer of 1929.

A. Sure, go to it.

Q. Weren't you laid off during the early spring or summer of '29?

A. No, not that I know anything about, only for maybe a week or two, something or other like that.

Q. Well, what year was it, or years, Mr. Gilmore, if any, that you worked in the fruit and vegetables over at Salinas during the summer time?

A. That was in '30.

Q. That was in '30?

A. Yes, in the fall of '30 after I left Boswell's and in the spring of '31.

Q. Now, you were getting 30 cents an hour at Boswell's on this first occasion of your employment there, weren't you?

A. No, sir—when, now?

Q. '28.

A. No. I was getting \$150 a month.

Q. And what was your position, please?

A. Well, I done some ginning there. I tied out. I fed the suction, anything that came up.

Q. And did you also help build this gin that you were telling us about? A. Yes, sir.

Q. And then what time was it in 1930 that you left Boswell's [1273] so far as that period of employment is concerned?

(Testimony of James William Gilmore.)

A. Some time in July, as well as I remember; after the 4th; sometimes after the 4th of July.

Q. And then you went down and worked in the fruit and vegetables at Salinas, is that right?

A. Well, no. I didn't go and work in the fruit and vegetables at Salinas at all. I didn't even go to Salinas.

Q. I understood you did.

A. I worked in the fruit.

Q. In the fruit? A. Yes.

Q. Where was that?

A. I worked at San Jose. I worked in cold storage. I went over to Monterey and worked in the fruit canneries and I also worked on the highway over there.

Q. And for how long a period did you do that work? A. Which work?

Q. How long was it before you came back to Boswell's? A. I came back in '31.

Q. And what time in '31?

A. Sometimes in September. I don't know the date.

Q. I see.

Now, when you came back there in 1931, what job were you put at at Boswell?

A. Helping put up the oil mill after the fire they had [1274] there that burned it down.

Q. And you were getting 30 cents an hour then?

A. Yes.

Q. How long did you work there on that occasion?

(Testimony of James William Gilmore.)

A. Well, I have been there practically—all the work I have done since that time has been for the Boswell Company.

Q. Well, here is what I am driving at, Mr. Gilmore. Isn't it a fact that each year since 1931, and up until the early part of 1938, you were laid off for several months? A. No.

Q. From your employment at Boswell's?

A. No, no; not for several months. Sometimes we would grind barley, we would grind cake for feed through the summer months.

Q. In other words, sometimes you were put at odd jobs, is that right? A. Yes.

Q. Were there periods during that time, however, namely, from 1931 up until March of '38 during which you were laid off?

A. Well, right during the depression there were, yes. They were all laid off. Even Mr. Hammond went out and run a ranch.

Q. Which Mr. Hammond is that?

A. Mr. Gordon Hammond; went out and took charge of a ranch, [1275] overseeing.

Q. Were you laid off in 1937?

A. I think I was off in '37 two weeks taking a vacation to Oregon.

Q. And you got 30 cents an hour during all of '37, didn't you?

A. I think in the fall of '37 they raised us to 35, as well as I remember—maybe before that. I don't remember the dates or exactly what time.

(Testimony of James William Gilmore.)

Q. What part of 1936 did you work, if you remember? A. In '36?

Q. Yes.

A. I worked practically all the time but about three weeks in the summer.

Q. Well now, in '36 did you work around Salinas in the fruit and vegetables?

A. No, I did not.

Q. How about '35? A. I did not.

Q. Or '34? A. I did not.

Q. Or '33?

A. I did not. I never have done any work around Salinas in the vegetables.

Q. Well, let us put it this way: You told us in 1931, I [1276] think you said——

A. (Interrupting): Yes.

Q. (Continuing) ——or late 1930 or up to '31, if I can remember the record correctly, you had a job around San Jose in fruit.

A. In the cold storage.

Q. In the cold storage.

Were there any jobs from that time on up to the first of the year, 1938, which you held with people other than Boswell?

A. No, sir;—only those two.

Q. Now, what two are you referring to, so we can get it clear?

A. In the fall or summer after I left Boswell's in '30, I worked a month or two in San Jose in

(Testimony of James William Gilmore.)

the Cold Storage, and that fall I went to Monterey and worked in the fish cannery; and in '31 in September some time—I don't know the date—I came back and went to work for J. G. Boswell Company, and that is the only work I have done since that time until this only on this school house.

Q. All right.

Now, didn't you either obtain the promise of or have some dealing for a job up in Oregon in the early part of 1938?

A. No, sir. I went up to visit my brother in '38, but I [1277] had no jobs or anything up there. I went up just merely to visit my brother I have up there and I also went up two weeks in '37; and I got a lay-off of two weeks from Mr. Gordon Hammond to go and visit my brother in Oregon.

Q. All right.

Now, did you have a conversation with Mr. Gordon Hammond in the month of May 1938 concerning your going up to Oregon?

A. In '38?

Q. In '38.

A. I should say I didn't. Why should I, because I just worked three weeks there and was out of a job, so why should I have a conversation with Mr. Gordon Hammond about going?

Q. Did you have any conversation at all with Mr. Gordon Hammond in '38? A. Yes.

Q. Just a minute.

About your going up to Oregon and getting a job there? A. No.

(Testimony of James William Gilmore.)

Q. Did you state in substance or effect to Mr. Gordon Hammond in May 1938 that you had a job in Oregon? A. I did not.

Q. Just a minute.

That you had a job in Oregon to which you were going as soon as the mill closed?

A. I did not, because I have had no jobs in Oregon, and I [1278] haven't stated it to anyone.

Q. Did you make any statement to that general effect to Mr. Gordon Hammond at that time?

A. No, I didn't.

Q. Did you state in substance or effect to Mr. Gordon Hammond during the month of May 1938 that you didn't think you would work in the mill any more because you couldn't stand the dust?

A. No, I did not.

Q. Did you have any conversation with Mr. Hammond along those general lines at that time?

A. No, I did not. [1279]

Q. Do I understand that you didn't have this conversation at any other time with him?

A. Not on the working in Oregon and not that I couldn't stand the dust, no.

Q. All right.

Will you please tell us, Mr. Gilmore, who—strike that.

Will you please tell us whether you stated in substance or effect to Mr. Gordon Hammond on or about May 17th, 1938, at the time you received

(Testimony of James William Gilmore.)

a check for your work at the Boswell plant, that you had a job in Oregon paying \$6.00 a day, and that you were going there? A. I did not.

Mr. McTernan: I object, your Honor, on the ground that has already been asked and answered.

Mr. Clark: This is a more specific statement and a different statement.

The Witness: It is a different statement, and I didn't tell him I had a job in Oregon, because I didn't have a job and I didn't have a chance of any.

Q. (By Mr. Clark) Did you mention to Mr. Gordon Hammond of a job in Oregon which would pay you \$6.00 a day? A. No, I did not.

Q. Have you ever applied for work in the Boswell plant since May, 1938? A. No. [1280]

Q. Did you have a conversation with Mr. Gordon Hammond on or about July 14th of 1938 at which time you borrowed a truck from him for the purpose of moving?

A. Never had no conversation with him. I borrowed a trailer from him sometime during that time, but there wasn't any conversation. I just asked him if he would let me have a trailer to haul some stuff, but there wasn't any conversation to it.

Q. Did you tell him at that time you were moving to Tulare? A. No, I didn't.

Q. Did you state to Mr. Gordon Hammond your reason for wanting to borrow the truck?

A. Yes, I may have did that, because I was out

(Testimony of James William Gilmore.)

of work and I couldn't pay house rent and I stored my stuff with a friend of mine.

Q. What reason did you state to Mr. Gordon Hammond for wanting to borrow the truck?

A. To move my stuff out of the house I was living at at the time.

Q. Did you tell him where you were going to move the stuff?

A. I didn't tell him—I don't think I did. I was going to move it only a couple of blocks, still here in town.

Q. Will you tell us whether or not on July 14th, 1938, you stated in substance or effect to Mr. Gordon Hammond that you wanted to borrow the truck in order to move your belongings to [1281] Tulare?

A. No, I went back once before—once after that and borrowed the same trailer to move my daughter's stuff and son-in-law's stuff to Tulare. That is what you are getting at now.

Q. Was that a later time than July 14th?

A. Yes.

Q. Did you talk to Mr. Gordon Hammond on this later occasion?

A. No, nothing; only to borrow a truck, that I wanted to move my daughter's stuff to Tulare. They was moving there.

Q. When was that?

A. I can't tell you. I can't carry an open book around when I borrow a trailer and put the dates down.

(Testimony of James William Gilmore.)

Q. Can't you fix it for us generally within the space of one month?

A. It was just the one day I was going to move the stuff to Tulare. I went down and wanted to borrow a trailer. What day it was, I don't know. I don't know what day of the week it was, because I don't pay any attention to it.

Q. It was after this first conversation at which you borrowed the trailer; is that correct?

A. Yes, I borrowed a trailer from him twice.

Q. On either of those occasions, did you ask Mr. Gordon Hammond for any work?

A. No. [1282]

Redirect Examination

Q. (By Mr. McTernan) Mr. Gilmore, are you working now? A. No.

Q. When did you last work on this high school?

A. I believe it has been about three weeks, as well as I remember. I don't know what date it was that I got laid off; two or three weeks.

Q. Well, this time you borrowed the trailer from Mr. Gordon Hammond you testified you didn't ask him for work. Why didn't you ask him? You were out of a job, weren't you?

A. Yes, I was out of a job, but why should I ask him for a job?

Mr. Clark: I object to that, may it please your Honor, and ask that it go out as not responsive, "why should I."

Trial Examiner Lindsay: He may tell why he did not.

(Testimony of James William Gilmore.)

It may go out.

The Witness: Because Julius had done told me they didn't have any more work for me, and I am not in the habit of begging a man for work when they come right out and tell me there is nothing else for me to do.

Mr. McTernan: That is all.

Recross Examination

Q. (By Mr. Clark) You didn't have any compunction about borrowing the truck a couple of times, did you?

A. No, borrowing a truck and asking for a job is two differ- [1283] ent propositions altogether, but it wasn't a truck, it was a four-wheel trailer.

Mr. McTernan: That is all. [1284]

Q. (By Mr. Clark) As a matter of fact, various employees of the Boswell Company and Mr. Gordon Hammond and Mr. Louis Robinson have loaned you money, haven't they?

A. No, they never did loan me money. They let me draw on what I had coming before payday but they never loaned me money that I can recall.

Q. They brought food to your house?

A. Not that I know about. If they did, it is all news to me; and I don't think they would bring food to anybody's house.

Mr. Clark: That is all.

(Witness excused.)

Mr. Mouritsen: Call Steve Griffin.

STEPHEN J. GRIFFIN

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Will you state your name, please? A. Stephen J. Griffin.

Q. And where do you reside, Mr. Griffin?

A. At Hanford.

Q. California? A. Yes, sir. [1285]

Q. Have you ever been employed by the J. G. Boswell Company in Corcoran, California?

A. Yes, sir.

Q. When were you first so employed?

A. In August, 1932.

Q. What type of work did you first do for the company? A. Hauled hay.

Q. What rate of pay did you receive?

A. 20 cents an hour.

Q. And what hours did you work per day?

A. I worked from 10 to 16 hours.

Q. How long did you continue to haul hay for the company at that time?

A. A short time.

Q. Well, is there any way you can fix that more definitely by weeks or months?

A. Well, something like two weeks.

Q. And then what other types of work?

A. I went to helping feed cattle.

Q. From 1933 to 1936 did you work more or less continuously for the company?

(Testimony of Stephen J. Griffin.)

A. Yes, sir.

Q. Doing different types of work?

A. Doing different types of work.

Q. Yes. [1286]

During that period from 1933 to 1936 was your pay increased at all?

A. It was increased from 20 cents to 40. The last job I had was 40 cents.

Q. Yes.

Now, during the year 1936 did your type of work change? A. Yes, sir.

Q. What type of work did you undertake during the year 1936?

A. In May 1936 I bought a hay baler from Boswell Company and they financed me on it; and I baled their hay for three seasons.

Q. Did you bale Boswell's hay alone during those three seasons?

A. Mostly. When I would have a day or two off that I wasn't busy on their work I baled others when I could get the job.

Trial Examiner Lindsay: Just a moment.

Will you gentlemen come up here?

(Conference between the Trial Examiner and counsel.)

Trial Examiner Lindsay: Off the record.

(Here followed discussion off the record.)

Trial Examiner Lindsay: On the record.

We will have a short recess, a ten-minute recess.

(Testimony of Stephen J. Griffin.)

(At this point a short recess was taken, after which [1287] proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Q. (By Mr. Mouritsen) Now, before the recess, Mr. Griffin, I believe we were talking about your work baling hay. I believe you stated that starting in 1936 you did that work for three seasons, is that correct? A. That is correct.

Q. And beginning in 1936, those three seasons that you did that would bring us up to what period?

A. About the '39—well, the summer of '39.

Q. What year? A. Summer of '39.

Q. '39 or '38? A. '38. Excuse me.

Q. At that time did you cease baling hay for Boswell's? A. Yes, sir.

Mr. Clark: I object to that on the ground it misstates the record, Mr. Examiner. This gentleman was baling hay, and Boswell's, as I understand it, was one of his customers, and other people were, too. In other words, I don't understand he was employed by Boswell up to this time.

Mr. Mouritsen: I want to know if he ceased baling hay for Boswell.

Mr. Clark: There is an inference there that there was an employment. That is what I want cleared up. [1288]

Trial Examiner Lindsay: May I have that question read?

(Testimony of Stephen J. Griffin.)

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: I object to that on the ground it assumes something not in evidence, namely, that this man was employed by Boswell's at that time, or during any of these seasons.

Trial Examiner Lindsay: May I have the other two or three questions preceding that?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I believe the answer was in before you objected.

Mr. Clark: Yes, it was.

Trial Examiner Lindsay: Do you want the answer stricken?

Mr. Clark: I move to strike it.

Trial Examiner Lindsay: Motion denied.

Q. (By Mr. Mouritsen) Now, after you ceased baling hay, did you go to work for the Boswell Company at the plant?

A. Not immediately. I went to work in about six weeks after I ceased baling hay.

Q. When did you cease baling hay?

A. I couldn't state just the time. It was in July some time.

Trial Examiner Lindsay: Which year?

The Witness: '38. [1289]

Q. (By Mr. Mouritsen) You went to work for the company in August or September, is that correct, of the year 1938?

(Testimony of Stephen J. Griffin.)

A. Yes, that is correct.

Q. And when you went to work for the Boswell Company, what type of work did you do?

A. I was cleaning, feeding suction, and sewing cottonseed, baling seed. [1290]

Q. What rate of pay did you receive?

A. 40 cents per hour.

Q. What hours per day did you work?

A. From eleven to, oh, I would say, some days, sixteen hours.

Mr. Clark: What was the rate of pay? I didn't catch it.

The Witness: 40 cents an hour.

Q. (By Mr. Mouritsen) And how long did you continue to work for the Company after you started in July or August of 1938?

A. I worked until the 17th day of November.

Q. And during that period from July or August of '38 to November, did you work steadily, or were you laid off from time to time?

A. I worked steadily.

Q. During this period in the year 1938 while you worked for the Company, did you ever have any conversation with Tom Hammond regarding the Union? A. I did.

Q. Do you recall the dates of any, or the approximate dates of any such conversations you had with Tom Hammond?

A. Well, it was sometime about the 6th or 7th of November.

Q. And where did this conversation take place?

(Testimony of Stephen J. Griffin.)

A. In the seed house. [1291]

Q. Was anyone else present other than yourself and Mr. Tom Hammond?

A. Yes, Jack Ely and Ray Fallon.

Mr. Clark: What was the last name?

The Witness: Fallon.

Q. (By Mr. Mouritsen) Have you named all of the people who were present at that time?

A. Yes.

Q. Will you state what you said to Mr. Tom Hammond on that occasion, and what he said to you?

Mr. Clark: Objected to on the ground it calls for hearsay and is not binding on any of the Respondents, no authority having been established from the Respondent Boswell to Mr. Hammond to speak for it with respect to any of the matters under investigation in this proceeding; on the further ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Well, I can't state just exactly the words that were said, but Tom was asking me if I had joined the Union, and he was talking about the thing being good enough at the Boswell Company. And I told him, "Yes, it was good enough for him," but a man working at ordinary wages, he couldn't make a living at it.

He said, "This Union is the worst thing that ever happened here." And he advised me to stay out of it. [1292]

(Testimony of Stephen J. Griffin.)

Q. (By Mr. Mouritsen) Do you recall anything further that was said at that time?

A. No, I can't.

Q. During that period in 1938, while you worked for the Company, did you become a member of any labor organization?

A. Yes, sir.

Q. What organization?

A. A. F. of L.

Q. And did you become a member of any Local of that organization?

A. Yes, sir, the Oil Mill and Cotton Gin Workers—no. I forget the number of the Union now, too.

Q. Well, was Mr. Prior who sits here at the table connected with that Local?

A. Yes, he was.

Q. And will you state whether or not other employees of the J. G. Boswell Company were members of that Local?

A. Yes, sir.

Q. Do you recall the approximate date when you became a member of that Union?

A. Well, it was about the 15th or 16th of November, I believe.

Q. And after you became a member, did you attend meetings of the Local?

A. I did.

Q. After you became a member of the Local, did you ever have [1293] a conversation with Tom Hammond regarding your membership in the Union?

A. Yes. He came around and asked me——

Mr. Clark (Interrupting): One moment.

Q. (By Mr. Mouritsen) Let us fix the time and place.

(Testimony of Stephen J. Griffin.)

Where did you have that conversation, Mr. Griffin?

A. At the cotton gin where I was sewing seed, back of the warehouse.

Q. And what was the approximate date of the conversation?

A. Well, that was along in the afternoon of November 17th.

Q. Was anyone else present other than yourself and Tom Hammond?

A. Yes, Paul Morris and George—Horace Hastings. That is all.

Q. What did Mr. Tom Hammond say to you on that occasion, and what did you say to him?

Mr. Clark: Objected to as calling for hearsay, may it please the Examiner, and upon the further ground it is incompetent, irrelevant and immaterial, there being no authority established from the Boswell Company to Mr. Tom Hammond to bind it with respect to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer, and you may have an exception.

The Witness: He came to where I was sewing seed, and he [1294] said, "Steve, did they get you last night?"

And I said, "Tom, I have been a member for two weeks."

And he said—that is all.

Q. (By Mr. Mouritsen) Was that the end of the conversation?

(Testimony of Stephen J. Griffin.)

A. That was the end of the conversation.

Q. Later in the day, did you have a conversation with Gordon Hammond?

A. Well, yes. Gordon come right away afterwards, and told me——

Mr. Clark (Interrupting): Just a minute.

Q. (By Mr. Mouritsen) How long after Tom Hammond talked to you did Gordon Hammond talk to you?

A. Well, something like fifteen or twenty minutes.

Q. After you had the conversation with Tom Hammond, did you observe what Tom Hammond did? A. Yes, sir. [1295]

Q. (By Mr. Mouritsen) What did Tom Hammond do?

A. He walked directly to the back of the warehouse and met Gordon and they stood and talked for around 15 or 20 minutes.

Q. And then did you observe what Gordon Hammond did after he had this conversation with Tom Hammond?

A. He came directly to me and told me I was laid off.

Q. Just a minute. Let us get the foundation first, Mr. Griffin.

Where did this conversation take place, the one with Gordon Hammond?

A. It was back of the warehouse.

Q. Was anyone else present at that time?

(Testimony of Stephen J. Griffin.)

A. Well yes, but nobody else heard the conversation, because I was hauling away seed.

Q. And what did Mr. Gordon Hammond say to you on that occasion and what did you say to Mr. Gordon Hammond?

A. Well, Gordon said, "Steve," he said, "can you find work any place else?"

I said, "I don't know." I said, "You know how times is. I don't suppose I could."

I said, "If I am laid off, I suppose I will have to try."

Well, he said, "I know you have got as big a family as anybody around here. You probably need the work as bad or worse than anybody around here, but I just haven't got any work for you." [1296]

And he said, "Some of the boys is getting it in their head that you boys are being laid off on account of the union." "But," he said, "There is nothing to that. I am just going to have to lay you off."

Q. Well now, during that conversation and before he mentioned the union, had you said anything to him concerning the union?

A. No, sir; I had not.

Q. Did you complete that day's work?

A. Yes, sir; I did.

Q. Have you had any employment since on or about November 17, 1938? A. Yes.

Q. Do you know how much money you have

(Testimony of Stephen J. Griffin.)

earned since that time? A. No, not exactly.

Q. Well, can you give us the approximate figure? A. Well, around \$65 or \$70.

Q. Are you now employed? A. Yes, sir.

Q. Where are you now employed?

A. I am employed on a hay baler at Hanford.

Q. And what rate of pay do you receive?

A. Well, I receive 25 cents per ton.

Q. Can you give us an approximate figure of what you earn [1297] per day or per week on this present job?

A. Well, it would be very hard. Around \$25 or \$30.

Q. Per week, is that correct?

A. Per week.

Q. Now, if the National Labor Relations Board should order your reinstatement with back pay, would you be willing to accept employment with the J. G. Boswell Company? A. I would.

Mr. Mouritsen: Now, Mr. Examiner, I believe I stated at the beginning of the Board's case that we were going to present the material against the J. G. Boswell Company, against the Associated Farmers and against the Exchange in that order. However, this witness—we have called him from his work and we prefer at this time also to examine him regarding the Associated Farmers' case, and I will do that at this time if that is agreeable.

Mr. Clark: That is satisfactory to us; yes.

Q. (By Mr. Mouritsen) Now, after——

Mr. Clark (Interrupting): First, may it please

(Testimony of Stephen J. Griffin.)

the Examiner, I want to make a formal objection to the reception of any evidence under the complaint in this matter as affecting the Associated Farmers of Kings County upon the ground there is no jurisdiction shown in the National Labor Relations Board with respect to that organization or over any alleged activities of it. [1298]

Trial Examiner Lindsay: Is that all?

Mr. Clark: That is all.

Trial Examiner Lindsay: The objection is overruled.

Q. (By Mr. Mouritsen) After you were laid off on or about November 17th, 1938, did you picket the plant of the J. G. Boswell Company?

A. I did.

Q. Did you picket the plant of the J. G. Boswell Company on or about January 30, 1939?

A. I did.

Q. Will you state at approximately what hour of the day you proceeded to the plant on that day, that is, on or about January 30, 1939?

A. About 6:00 o'clock in the morning.

Q. Was anyone else with you?

A. Yes, sir; Elgin Ely.

Q. And how did you proceed to the plant at that time?

A. We were in Elgin's car. He drove Elgin's car to the plant.

Q. Did you have any signs on the car?

A. No, not when we drove to the plant. We put the sign on after we got to the plant.

(Testimony of Stephen J. Griffin.)

Q. And what did the sign bear? What words did the sign bear, in substance? [1299]

A. Well, it said, "Picket car of the——" "A. F. of L. Picket Car."

Q. How long did you remain at the plant—strike that.

Where, if any place, did you station the car on that morning?

A. We stationed the car on the east side of the scale house, the scale office, near a telephone post.

Q. Is that near any entrance to the plant?

A. Yes. It is near the south entrance—no, the north entrance.

Q. Now, what activity did you engage in on that morning?

A. Well, we was stationed there stopping trucks if any appeared, and notifying them that Boswell Company was unfair to organized labor.

Q. And how long did you continue such activity?

A. Well, along up to 9:00 and 10:00 o'clock.

Q. On the morning—strike that.

Do you know a man named Lloyd Liggett?

A. Yes, sir, I do.

Q. Who is he?

A. Well, he was employed by the Boswell Company for a good long while and I understand he is farming, contracting their tractor work now.

Mr. Clark: May it please your Honor, I move that the part, "I understand he is farming and contracting"— [1300]

(Testimony of Stephen J. Griffin.)

The Witness (Interrupting) Well, he is.

Mr. Clark (Continuing) —“their tractor work now” go out as based upon hearsay and simply the conclusion of this witness with some rumor that he has heard.

Trial Examiner Lindsay: It may go out.

Q. (By Mr. Mouritsen) Have you observed Mr. Lloyd Liggett engaged in any of these activities that you have mentioned? A. I have.

Q. In 1938 and 1939?

Mr. Clark: I object to that upon the ground it is indefinite, vague, and unintelligible.

Trial Examiner Lindsay: May I have the question?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: My motion was in, Mr. Examiner, I believe, before the answer. If not, I move to strike the answer upon the same ground.

Trial Examiner Lindsay: Your objection came after the answer. The answer may stand.

Q. (By Mr. Mouritsen) Did you see Lloyd Liggett on this morning you were picketing the plant, that is, on or about January 30, 1938?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

The Witness: I did.

Trial Examiner Lindsay: Just a moment. He may answer. [1301]

The Witness: I did.

(Testimony of Stephen J. Griffin.)

Q. (By Mr. Mouritsen) What did you observe Mr. Loyd Legget doing on that morning, if anything?

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

The Witness: He came from toward town between 9:00 and 9:15 and went into the Boswell office, and stayed for some time.

Q. (By Mr. Mouritsen) Approximately how long? A. Well, around fifteen minutes.

Q. Then what did you observe Mr. Loyd Legget do, if anything? A. He came out——

Mr. Clark (Interrupting) Just a minute, please.

That is objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: He came out of the office and went towards town.

Q. (By Mr. Mouritsen) Now, at or about that time did you see anyone else go into the plant?

A. Yes, several others.

Q. Who? A. Well, Elliott.

Q. Who is Mr. Ellet? [1302]

A. He is manager of a cotton gin in town.

Mr. Clark: How is that spelled, Mr. Examiner?

Trial Examiner Lindsay: Do you know how it is spelled? Is it E-l-l-i-o-t-t?

The Witness: I don't know—E-l-l-e-t.

(Testimony of Stephen J. Griffin.)

Q. (By Mr. Mouritsen) I will ask you, does the gin that he operates bear his name?

A. No——

Q. (Interrupting) Or is it called that?

A. It bears his name, but it belongs to somebody else. I don't know.

Q. Very well.

Now, do you know what business or occupation Mr. Ellet was engaged in? A. I believe——

Q. (Interrupting) I will withdraw that.

What did you observe regarding Mr. Ellet on that morning?

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: He came down and stopped in front of the office, and I couldn't say for sure if he went in, but I thought he did.

Mr. Clark: I move that "I thought he did" go out, your Honor, as being indefinite and not responsive. [1303]

Trial Examiner Lindsay: That may go out.

Q. (By Mr. Mouritsen) And after you observed Mr. Ellet at or near the plant, did you later see him leave?

A. Yes, sir. He drove around the plant.

Q. Now, did you see anyone else at or near the plant on that morning?

A. Yes, I did, but—— (pause) ——I don't believe I can recall their names now.

(Testimony of Stephen J. Griffin.)

Q. Now, after that time that you saw these people at or near the plant, did you later see Loyd Legget?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Yes, I did.

Q. (By Mr. Mouritsen) Did you observe what Mr. Loyd Legget did at that time?

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

The Witness: He left and was gone around 15 minutes, and he came back and parked his car directly in front of the picket car.

Q. (By Mr. Mouritsen) Did anyone else accompany Mr. Loyd Legget when he returned?

A. Yes, sir. There was around fifty cars.

Q. I believe you stated that Mr. Loyd Legget parked his car [1304] in front of the picket car, is that correct?

A. Yes, sir, that is correct.

Q. What did Mr. Loyd Legget then do?

A. He got out of the car—

Mr. Clark (Interrupting) Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

Mr. Mouritsen: Mr. Examiner, could the Respondent have a continuing objection to this? It is very difficult—

Mr. Clark (Interrupting): I will accept that

(Testimony of Stephen J. Griffin.)

stipulation, Mr. Examiner. In other words, it is stipulated that my objection that this is all incompetent, irrelevant and immaterial runs to this entire line of testimony?

Mr. Walsh: Yes.

Mr. Clark: Very well. I won't repeat the objection.

Trial Examiner Lindsay: All right.

Q. (By Mr. Mouritsen) Now, will you state, Mr. Griffin, what Loyd Legget did after he parked his machine in front of the picket car?

A. He got out of the car and came over to our car, and opened the door on the side of the car where I was sitting.

Q. Did anyone else gather around the picket car other than Mr. Loyd Legget? A. Yes.

Q. Who; will you state?

A. They stated that they was 150 or 200—[1305]

Mr. Clark (Interrupting): Just one minute.

Mr. Mouritsen: Let us have, first, the names of as many of these other people who gathered around the picket car at that time as you can recall?

The Witness: Forrest Riley, E. C. Salyer, Walter Grisham. (Pause.) You have caught me. I know lots more of them that was there, but I can't recall them.

Marshall, George Cutter.

Q. (By Mr. Mouritsen) Now, Mr. Griffin, I will ask you whether or not you recognized any of the following persons in that gathering at that time——

(Testimony of Stephen J. Griffin.)

Mr. Clark (Interrupting): Just a minute. I object to this manner of examining this witness upon the ground it is improper direct examination; it is leading and suggestive, goes far beyond the proper manner of eliciting credible testimony from a witness on direct examination. I take it that Mr. Mouritsen is going to go through a list of names and ask this gentleman whether he saw this, that and the other one, and I submit, Mr. Examiner, the proper way is to exhaust the witness's memory by simply asking him who, if anyone, he now recalls was there, without any prompting.

Trial Examiner Lindsay: Have you anything to say in response to that?

Mr. Mouritsen: I will ask—if that is an objection——

Q. Have you given us all the names you recall? [1306]

A. Well, at present, yes, all that I know.

Q. Very well.

Then I will ask you whether or not you observed in that crowd Mr. Robert Wilbur?

Mr. Clark: Just one moment, your Honor.

I urge the same objection upon the grounds just stated, that it is improper direct examination, leading and suggestive, and amounts only to prompting this man who should know, if he remembers anything about the incident, who was there.

Mr. Walsh: You will have ample opportunity to cross examine the witness and test his memory.

(Testimony of Stephen J. Griffin.)

Mr. Clark: I don't understand Mr. Walsh's statement.

Mr. Walsh: I said you will have ample opportunity to cross examine the witness and test his memory.

Mr. Clark: That is not the burden of my objection. I make the objection upon the ground that this is leading and suggestive, and beyond the realm of proper direct examination.

Trial Examiner Lindsay: I think he may answer. Proceed.

The Witness: (Pause.)

Mr. Clark: I don't think he got your last question, Mr. Mouritsen. [1307]

Mr. Mouritsen: I will repeat it then and stipulate that your objection will go to it.

Mr. Clark: Very well.

Q. (By Mr. Mouritsen) I will ask you whether or not on that morning and in that gathering you recognized Robert Wilbur? A. Yes, I did.

Mr. Clark: I have nothing to say. I understand my objection on the ground of incompetency runs to the entire line of testimony, anyway.

Q. (By Mr. Mouritsen) I will ask you whether or not on that morning you observed in the gathering Roy Filcher. A. Yes.

Q. And I will ask you whether or not on that morning you observed S. F. Archer. A. Yes.

Q. I will ask you whether or not on that morning you observed in that gathering Roland Bailey?

(Testimony of Stephen J. Griffin.)

A. I did.

Q. I will ask you whether or not on that morning you observed Ralph Gilkey. A. Yes.

Q. And I will ask you whether or not on that morning among the gathering you observed Raymond Gilkey. A. Yes. [1308]

Q. I will ask you whether or not on that morning in the gathering you observed Walter Grisham?

A. Yes.

Q. I will ask you whether or not on that morning, among the gathering, you noticed Louie Hammond? A. No.

Q. I will ask you whether or not on that morning among the gathering you noticed Phil Hammond. A. Hanson.

Q. Phil Hanson? A. Yes, I did.

Q. I will ask you whether or not on that morning you observed J. W. Hubbard?

A. Well, no.

Q. I will ask you whether or not on that morning, among the gathering, you noticed "Slim" Jones. A. I did.

Q. Do you know his first name other than "Slim"? A. No, I don't.

Q. I will ask you whether or not on that morning, among that gathering, you noticed Joe Mackey.

A. Yes.

Q. I will ask you whether or not on that morning, among that gathering, you noticed Garland Salyer. A. I did. [1309]

(Testimony of Stephen J. Griffin.)

Q. I will ask you whether or not on that morning, among that gathering, you noticed Glen Sego.

A. Yes.

Q. And I will ask you whether or not on that morning, among that gathering, you noticed Ronald Squire? A. I did.

Q. I will ask you whether or not on that morning, among that gathering, you noticed Brice Sherman. A. Yes.

Q. And I will ask you whether or not on that morning, among the gathering, you noticed Russel Slaybough? A. I did.

Q. I will ask you whether or not on that morning, among the gathering, you noticed Louie Hanson. A. No, I did not.

Q. Now, do you recall the names——

Mr. Clark (Interrupting): Now, may it be understood, Mr. Examiner, that my objection as to the manner of eliciting this testimony rests to the entire line of testimony?

Mr. Walsh: So stipulated.

Mr. Clark: As to all these names?

Mr. Walsh: We will stipulate.

Mr. Clark: Without my repeating the objection?

Trial Examiner Lindsay: Yes.

Mr. Clark: Very well. [1310]

Q. (By Mr. Mouritsen) I will ask you, Mr. Griffin, if you recall the names of any other persons who were present that morning among the gathering. A. Yes, Clifford Hammond.

(Testimony of Stephen J. Griffin.)

Q. And any others? A. No, I believe not.

Q. Now, was anyone with you sitting in the picket car at the time when Loyd Liggett opened the door? A. Elgin Ely.

Q. Did Mr. Loyd Liggett say anything at that time? A. Well, yes.

Q. Will you state what Mr. Loyd Liggett said on that occasion?

Mr. Clark: Objected to upon the ground it calls for hearsay, Mr. Examiner, and is not binding upon any of the respondents in this proceeding; upon the further ground there is no connection shown between Mr. Loyd Liggett and any of said respondents, particularly the Associated Farmers of Kings County, and no authority shown by the Associated Farmers of Kings County to Mr. Liggett to speak for it in any connection.

Trial Examiner Lindsay: He may answer.

The Witness: He said, "What have you got here, Steve?" He said——

Q. (By Mr. Mouritsen) Did you say anything at that time? [1311]

A. No. He said, "You ought to be ashamed of yourself out here on this picket line, as good as the company has been to you. They just can't stand this." He said, "We are not going to stand for it. Get out of the car."

Q. Do you recall whether or not at that time anything was said regarding a violation of the law?

A. Yes, sir.

(Testimony of Stephen J. Griffin.)

Q. Will you state what was said in that respect and by whom?

Mr. Clark: Same objection, Mr. Examiner.

Trial Examiner Lindsay: Same ruling.

The Witness: I said, "Listen, Loyd," I said, "If I am violating the law, why don't you go get the law. I will go with the law."

Mr. Clark: I can't hear the witness.

Trial Examiner Lindsay: Read the answer.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) Did Mr. Liggett say anything at that time?

A. He said, "No, Steve, you are not violating the law." "But," he said, "We are not going to wait on the law." He said, "There is 150 Associated Farmers here that says you can't set here."

Somebody else spoke up in the crowd and said, "No, there [1312] is 200."

Q. Did you recall or did you recognize——

Mr. Clark (Interrupting): Just so I may be sure my objection is in, I will move to strike that answer upon the grounds previously stated in support of the objection, your Honor.

Trial Examiner Lindsay: Motion is denied.

Mr. Walsh: May I have the last part of the answer read, please, your Honor.

Trial Examiner Lindsay: Yes. Read the last part of the answer.

Mr. Clark: May I have the question and the

(Testimony of Stephen J. Griffin.)

answer both read because I would like to have the objection in.

Trial Examiner Lindsay: The question and the answer.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I also move, may it please the Examiner, that the last part of the answer, namely, that involving the Associated Farmers, be stricken as not responsive unless it be deemed that my hearsay objection has been put into it in the proper order.

Mr. Walsh: I will so stipulate.

Mr. Clark: Will you stipulate to that?

Mr. Walsh: Yes, surely.

Mr. Mouritsen: Yes. [1313]

Mr. Clark: Very well. I will withdraw the motion, then.

Q. (By Mr. Mouritsen): Now, after—strike that.

Did you recognize the individual who spoke up at that time and said, “No, 200”?

A. No, I did not.

Q. Now, did Mr. Liggett say anything further to you at that time?

A. Well, the crowd began to holler, “Turn the car over. Take them out. What are we waiting on?”

Loyd said, “No, the boys are going to leave.”

Q. Well now, did you recognize any of the in-

(Testimony of Stephen J. Griffin.)

dividuals—strike that.

Other than Mr. Loyd Liggett, were a number of other individuals gathered around the car?

A. Yes.

Q. Approximately how many individuals would you——

A. (Interrupting): Well, I would say between 150 and 200.

Q. Now, did you recognize any of those persons in the crowd who made the statement, “Turn the car over”?

A. Well, no. They were standing in the back.

Q. Did you recognize any of the individuals in the crowd who made the statement, “Pull them out”?

A. Glen Sego.

Q. Any others? A. No. [1314]

Q. Did you recognize any of the individuals who stated “What are we waiting for”?

A. No.

Q. Now, after those statements were made did Mr. Liggett say anything further to you?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Yes.

Q. (By Mr. Mouritsen): Will you state what he said? A. He said——

Mr. Clark (Interrupting): Objected to as hearsay, not binding on any of these respondents.

Mr. Walsh: That is stipulated as to that.

(Testimony of Stephen J. Griffin.)

Mr. Clark: Very well.

Trial Examiner Lindsay: Yes.

The Witness: He said, "Boys, you better be getting out of here and," he said, "Don't come back." He said, "If you come back," he said, "We are not going to say what we are going to do to you the next time."

Q. (By Mr. Mouritsen): Do you recall anything further that he said at that time?

A. Somebody hollered at him and told him to move his car, that they would get out.

Q. Did you recognize the individual who hollered to him? [1315]

A. Well, E. C. Salyer.

Q. Now, at that time did you say anything or did Mr. Elgin Ely say anything?

A. Well, conversation between us—so much talk there is some of it I don't just remember or recall; just talk.

Q. Well, after Mr. Liggett made his last statement to you what did you do, if anything?

A. Well, they told us to get out. Elgin told them he couldn't start his car, that the starter was broke.

Q. Was anything further said at that time?

A. Well, they said they would push us away and somebody got the picket sign off the back of the car and brought it up and throwed it in the back of our car in the back seat.

Q. Was that somebody either you or Mr. Elgin Ely?
A. No. It was an Associated Farmer.

(Testimony of Stephen J. Griffin.)

Q. And did——

Mr. Clark (Interrupting): Just a minute.

Mr. Examiner, I move that “It was an Associated Farmer” go out as being a conclusion of this witness that is even beyond the hearsay objection or the lack of authority objection I have been making. There is no showing at all in this record to support any such statement as that, that it was the Associated Farmers. I move that it go out as not responsive and based upon the utmost speculation and conjecture.

Mr. Mouritsen: Well, Mr. Examiner, in that regard, of [1316] course we can only take the identification of these men that was made by themselves to the witness.

Mr. Clark: Well, that is not even supported here. That is hearsay.

Trial Examiner Lindsay: The answer may stand.

Q. (By Mr. Mouritsen): Now, after they placed the picket sign in the car, what next occurred, if anything?

A. Well, Loyd moved his car and they shoved us away. We started the car and three other boys drove up.

Q. What other boys drove up? Who do you mean by “the other boys drove up”?

A. Three of the union boys.

Q. And do you recall their names?

A. Yes.

(Testimony of Stephen J. Griffin.)

Q. Will you state them, please?

A. "Fat" Ely—(Pause)—let us see, there is three of them—I forget.

Q. Well, now, what next occurred after that, I mean after they drove up?

A. Well, they shoved our car over—no, they drove up before they shoved our car off and they told us to come on, let us go. They were talking to them. They wanted to know if that was some more of the boys, some more of the crowd, so they went over to that car and were talking to them.

[1317]

Q. Well now, Mr. Griffin, could you rather than use the pronoun "they" which is referring to both parties, could you name, identify the individuals in some other way?

In other words, let us go back.

I believe you started—you stated that a number of the union boys drove up before they shoved your car off. Is that correct?

A. Yes, that is correct.

Q. Now——

A. (Interrupting): R. K. Martin and "Fat" Ely and——

Q. (Interrupting): Do you recall the name——

A. (Interrupting): ——Johnston.

Q. And are they the three union men to whom you referred in your testimony? A. Yes.

Q. Now, who talked to whom during that——

A. (Interrupting): Well, Roland Martin hol-

(Testimony of Stephen J. Griffin.)

lered at us and told us to come on, let's go.

Q. Then what next occurred or what next was said?

A. Well, they shoved our car off and we turned around.

Q. And "they" refers to whom?

A. Well, Roland Martin.

Q. No. I mean who shoved your car?

A. Oh, the men, the Associated Farmers.

Mr. Clark: Now, just a minute, Mr. Examiner. I move [1318] that that go out. There is nothing established in this record whatsoever to warrant a statement such as that. If that is the kind of evidence that is going to be produced here, why I move, your Honor, that the matter as against the Associated Farmers be dismissed.

Mr. Walsh: I will stipulate the witness' answer be amended to read that the men who had denominated themselves as Associated Farmers——

Mr. Clark (Interrupting): The record does not even show that.

Trial Examiner Lindsay: Just a minute.

Mr. Clark: That denomination is the purest and rankest of hearsay.

Trial Examiner Lindsay: Now, listen. The record speaks for itself. It isn't necessary for you gentlemen to get into an argument. I believe this man, in his direct examination, right off, started by stating that Mr. Liggett said that there were 150 members of the Associated Farmers there.

(Testimony of Stephen J. Griffin.)

Now, if I am wrong on that, we will have it corrected. Go back and read the first part of this man's direct examination.

Mr. Clark: Subject to the objection that I made that it was hearsay.

Mr. Walsh: I recall the Examiner's statement as being the testimony of the witness and following that someone said "No, there were 200."

Trial Examiner Lindsay: Now, the answer may go in. In other words, he may answer. It is perfectly right that the attorneys should state their reasons for their objections, and put all the reasons that they think are applicable in the objection, the reason for the objection, and when you have exhausted your theories on what your reasons are, then I think it is advisable to let it stand there, and I will rule on it.

Now, as to arguing the evidence at this time, I think you are out of order, because you will be given—all parties will be given—a chance to argue the evidence, as I have stated some time ago. That will eliminate argument between counsel or the various parties.

We will adjourn until 2:00 o'clock.

(Thereupon, at 12:10 o'clock P.M., a recess was taken until 2:00 o'clock P.M. of the same date.) [1320]

After Recess

(Whereupon, at 2:00 o'clock p. m., the hearing in the above-entitled matter was resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Ready for the respondents.

Mr. Mouritsen: Ready for the Board.

Mr. Examiner, at this time we have obtained a photostatic copy of the union charter in this case, which has been introduced in evidence as Board's Exhibit 4. At this time I desire to offer the photostatic copy of Board's Exhibit 4 and withdraw the original of the charter.

Trial Examiner Lindsay: The substitution may be granted. Have you compared it? Oh, it is photostated.

Mr. Clark: I will take counsel's statement on that.

Mr. Mouritsen: And also at this time, Mr. Examiner, I desire to offer the constitution of the American Federation of Labor, as adopted at the 58th Annual Convention held at Houston, Texas, October 3rd to 13th inclusive, 1938, for which I believe Board's Exhibit 6 was reserved. I offer that as Board's Exhibit 6 at this time.

Trial Examiner Lindsay: That is correct. Any objections? (No response.)

It may be received.

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 6.) [1321]

Mr. Mouritsen: May I have a moment, your Honor?

Trial Examiner Lindsay: Yes.

(Conference between counsel.)

STEPHEN J. GRIFFIN,

the witness on the stand at the time of recess, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

(Continued)

Q. (By Mr. Mouritsen): Now, Mr. Griffin, when you were on the stand before the recess I believe you were describing the events that occurred on the morning of January 30, 1939, and you had proceeded as far as the description of the fact that they pushed, a number of these people in the crowd pushed the car in which you and Elgin Ely were sitting. Is that correct? A. Yes, sir.

Q. And that at or about the time that they pushed the car these other union boys that you named drove up. Is that correct? A. Yes.

Q. Now, will you describe what occurred after the boys, the members of the crowd, pushed the machine in which you and Elgin Ely were sitting?

A. Well, we drove a ways north and turned around and came back through the Associated Farmers. [1322]

Mr. Clark: Now, may it please your Honor, I ask that the statement of the witness that he came

(Testimony of Stephen J. Griffin.)

back through the Associated Farmers go out as constituting his conclusion and also based upon hearsay.

Mr. Mouritsen: I will agree that it may be deemed that the witness stated the men who denominated themselves as Associated Farmers——

Mr. Clark (Interrupting): I won't accept that amendment. The same objection, Mr. Examiner.

Trial Examiner Lindsay: All right. He may answer.

Q. (By Mr. Mouritsen): Will you continue your description?

A. Well, we drove back through the Associated Farmers——

Mr. Clark (Interrupting): Same objection. Now just a minute, please.

Trial Examiner Lindsay: Just a minute. I thought you accepted the statement that it might be deemed to be a group of men who were designating themselves as such.

Mr. Clark: I specifically said I did not accept that, Mr. Examiner.

Trial Examiner Lindsay: I misunderstood you.

Mr. Clark: I made my objection to the statement, even if it be so interpreted, it was an unwarranted conclusion by this witness—this is the ground of my objection—and is based solely upon hearsay and no authority or connection whatsoever established in this record between the people at

(Testimony of Stephen J. Griffin.)

[1323] this meeting and the Associated Farmers of Kings County which would warrant the witness making such a statement.

Trial Examiner Lindsay: Will you kindly read back Mr. Clark's statement just a few minutes ago in response to Mr. Mouritsen's statement?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I am sorry. I misunderstood you. I thought you said you would.

You may describe what these people are and, for the time being, leave the two words "Associated Farmers" out of your answers.

The Witness: Well——

Mr. Mouritsen (Interrupting): Do you understand the Trial Examiner's correction in that regard?

The Witness: Yes.

Q. (By Mr. Mouritsen): Will you proceed with your description.

A. Well, we stopped and Ralph Marshal was in the crowd. Elgin Ely asked him if he would be satisfied now that we were leaving. He said, "Yes." [1324]

Mr. Clark: Just a moment. I ask that go out as not responsive. I didn't understand that this question called for a conversation.

Trial Examiner Lindsay: Read the question.

Just a moment, now. All attorneys must pay attention to these questions and the answers.

(Testimony of Stephen J. Griffin.)

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Now, read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Mr. Clark: I move that go out as not responsive, your Honor, and based on hearsay.

Trial Examiner Lindsay: It may remain.

Q. (By Mr. Mouritsen): Now, after Ely made the statement, did Marshall say anything?

Mr. Clark: The same objection, your Honor, hearsay, incompetent, irrelevant and immaterial, no connection shown between Marshall and any of the Respondents.

Trial Examiner Lindsay: The same ruling.

The Witness: Yes.

Q. (By Mr. Mouritsen): What did he say?

A. He said, "Yes, we will be satisfied. Keep going and go on into Old Mexico."

He said, "Where are you from, anyway, Ely?"

[1325]

He said, "I am a native townner."

Q. Who said that? A. Ely.

Q. Continue.

A. He said, "I didn't know we had such people as you in California." He said, "You had better go to Oklahoma and swap places with somebody down there and let them come out here."

Q. Who made that last statement?

(Testimony of Stephen J. Griffin.)

A. Ralph Marshall.

Q. Did any further conversation take place at that time between Elgin Ely and Ralph Marshall?

A. Not that I remember.

Q. Will you state what next occurred after that conversation?

A. Well, we drove away and came to Martin's house and stopped in front of Martin's house; and we heard the horns honking down town, and they were having a parade, the farmers.

Mr. Clark: Just a moment. I ask that "they were having a parade, the farmers," go out. It is this gentleman's conclusion. He was at somebody's house, not down town.

Trial Examiner Lindsay: "They were having a parade down town," may go out for the time being. The rest of the answer may stand.

Q. (By Mr. Mouritsen): Mr. Griffin, did you see the people you described as farmers having a parade down town? [1326]

A. Yes, I seen the cars.

Q. Will you describe what you saw with reference to the fact that you have—or the thing that you have called a parade? What did you see in that regard?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: I seen the cars driving up and down the street blowing their horns, and heard them blowing their horns.

(Testimony of Stephen J. Griffin.)

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Clark): Mr. Griffin, am I correct in stating that you returned to work at the Boswell plant in the fall of 1938 on or about the first week in August? A. No, sir.

Q. Well, when was it please?

A. It was sometime in August; I don't know what time.

Q. Some time in August? A. Yes.

Q. Do you hear my questions?

A. Yes, I heard your questions.

Q. And how long did you work at that time?

A. I worked until the 17th day of November.

Q. Continuously?

A. Continuously, yes, sir.

Q. And what job did you perform there? [1327]

A. I cleaned up around the cotton gins and fed suction, and sewed cotton seed.

Q. Well, do I understand that you weren't laid off at any time after the first week of August, 1938, until the 17th day of November?

A. Yes, you do.

Q. Your name is Stephen J. Griffin?

A. Yes, sir.

Q. I want to show you, Mr. Griffin, what purports to be your Social Security record kept at the Boswell Company, being part of Board's Exhibit 3 in this case, and I want particularly to direct your attention to the entry 8-11, meaning Au-

(Testimony of Stephen J. Griffin.)

gust 11th, 1938, opposite which appears the figures \$8.75, and then to the next entry, 10-13, meaning October 13th, opposite which appears the figures \$10.40, and after you have examined those, I will ask you whether your recollection is refreshed as to whether or not you weren't laid off from August 11th until on or about October 7th of 1938?

Mr. Walsh: I object unless those figures——

Mr. Clark (Interrupting): They are in evidence, Mr. Walsh, already.

Mr. Walsh: Let's explain to the witness that the time when the payment is made which is reflected on those records and for what period of time the witness worked that is covered by the payment that is made in that last figure, October whatever [1328] the date you read, Mr. Clark——

Mr. Clark (Interrupting): October 7th. I said until on on or about October 7th, the date being October 13th. [1329]

I may state for your information, Mr. Walsh, there already appears from the evidence in this case that the payments are made at the end of a work week, you see?

I will submit the record, Mr. Examiner, because I am examining the man on his recollection, and am asking him whether or not the dates called to his attention refresh his recollection with respect to the amount of time he worked in this plant during this particular time in 1938.

Mr. Walsh: I will withdraw the objection in

(Testimony of Stephen J. Griffin.)

view of the fact that counsel has explained to the witness that the payments are made at the end of the work week for which the wages are earned.

Trial Examiner Lindsay: Do you understand the question, Mr. Witness?

The Witness: I understand the question, yes.

Trial Examiner Lindsay: All right.

You may answer.

The Witness: Well, I think there is a mistake in the books.

Q. (By Mr. Clark) You say there is a mistake in the books? A. Yes.

Q. So that your testimony is that you were not—withdraw that.

Your testimony is that you did work at the Boswell plant from August 11, 1938, to October 10th—to October 7th, 1938 continuously without any lay-off, is that right? [1330]

A. Well, as far as I can remember, yes.

Q. What were you doing during that period of time?

A. I was sewing cottonseed cake and cleaning up around the gins and feeding suction.

Q. All right.

Now, were you hauling any cotton at that time, too? A. Hauling cotton?

Q. Yes.

A. Well, if we didn't have work to do in sewing seed or cleaning up around the house, we hauled cottonseed into the warehouse—into the seed house.

(Testimony of Stephen J. Griffin.)

Q. Now, during this period of time, that is from August of 1938 on through to November 17th, were you paid continuously at the rate of 40 cents an hour? A. Yes.

Q. During the last week of your work there at the plant, that is, the week ending November 17th of 1938, am I not correct in stating that your work consisted chiefly of hauling planting seed?

A. No.

Q. What did it chiefly consist of?

A. It chiefly consisted of sewing planting seed.

Q. Sewing what kind of seed?

A. Planting seed.

Q. Planting seed? [1331]

A. Yes, sir.

Q. Was there some work done by you during that week which consisted merely of cleaning up around the plant?

A. Well, I don't know as there was that week.

Q. Now, did you finish the sewing—withdraw that.

Was there a certain amount of sewing that you were working on during that week, a certain acreage?

A. Well, we were sewing from the gin. That is all I know.

Q. Sewing sacks, is that right?

A. Sewing sacks from the gins, and as long as the seed ran, I suppose I did.

Q. The thing I wanted to know is this: Didn't the seed run out?

(Testimony of Stephen J. Griffin.)

A. No, it did not.

Q. Do you know how many hours a day you worked during the last week of your employment?

A. Around 12 hours; yes.

Q. You are sure of that?

Mr. Mouritsen: May that be clarified? I don't think the witness understands.

Q. (By Mr. Clark) A day, I mean.

A. 12 hours a day.

Q. Around 12 hours a day? A. Yes.

Q. When was it with respect to November 17th that you first [1332] learned you were to be laid off?

A. It was some time in the evening around 2:00 or 3:00 o'clock.

Q. Weren't you told at least two days prior to that time——

A. (Interrupting): No, sir.

Q. (Continuing) Wait a minute, please. Don't be so anxious in these answers.

Weren't you told at least two days prior to the 17th that it would be necessary to lay you and certain others off? A. No, sir.

Q. You are sure of that?

A. I am sure of it.

Q. So, if I understand you, the first information you had of the fact that you were to be laid off came about 2:00 or 3:00 o'clock on the afternoon of the 17th, is that right?

A. Yes, sir, before I was laid off, 2:00 or 3:00 o'clock on the 17th.

(Testimony of Stephen J. Griffin.)

Q. All right.

Where was it that you were sewing sacks in the plant?

A. I was sewing sacks between the gin and the back of the warehouse.

Q. All right.

Is there some kind of a spout that empties seed into the sack? [1333]

A. Yes, sir.

Q. And how close to you is another spout where another sack sewer is?

A. Right against it.

Q. Just within a yard or two, isn't that right?

A. Yes, sir.

Q. Do you remember who was working at the spout sewing sacks on the 15th of November, 1938?

Mr. Mouritsen I object to the question. I think the date is the 15th.

Mr. Clark: I say the 15th, two days earlier.

Trial Examiner Lindsay: You may answer.

The Witness: Well, they were changed around until I don't remember just who—several of us work there.

Q. (By Mr. Clark) Take the week ending November 17th, Mr. Griffin, and I will ask you for the names of as many persons as you can remember who worked at sewing sacks at the spout right next to you.

A. Well, Morris, Horace Hastings; and Horace didn't work all the time. He just worked part of the time. He would come around and spell us off

(Testimony of Stephen J. Griffin.)

at noon, something that way, if they needed someone, someone called over to load cotton or something, he helped; George Andrade and myself.

Q. Is that George Andrade?

A. Andrade yes. [1334]

Q. Did he work at that job during the week ending the 17th? A. Yes, sir.

Q. And who else, if anyone?

A. No one else. There was a fellow by the name of Eller worked there part of the time.

Q. Eller?

A. Eller; called off a job to spell out.

Q. All right.

Now, did all of these men you have named work only at the sack sewing place next to you?

A. No. They worked at different jobs.

Q. No, no. I mean, did any of them spell you off sewing sacks during that week.

A. During the noon hour, yes, while we ate lunch, probably ten or fifteen minutes.

Q. All right.

Now, the thing I am asking you for is the man, if any, who worked steadily at the place where the seed was put in the sack next to you.

Mr. Mouritsen: I object—

Mr. Clark (Interrupting): During the week ending November 17th.

Mr. Mouritsen: I object to that as already asked and answered. [1335]

Mr. Clark: I don't think it is clear, Mr. Ex-

(Testimony of Stephen J. Griffin.)

aminer, whether there was one man who occupied the position or whether there were these four or five this gentleman has named.

Trial Examiner Lindsay: If he knows, he may answer.

The Witness: Well, no; there weren't. There was Horace Hastings. He came on the job after I was laid off on the 17th.

Q. (By Mr. Clark) I am not interested in that. I mean up to the 17th.

A. I didn't understand your question.

Q. All right. Let us go back a minute.

As I understand it, there are two of these spouts out of which seed comes into sacks.

A. Yes, sir.

Q. At the place where you were working sewing sacks, is that right? A. That is right.

Q. Now, I understood you to say that during the week ending the 17th you were the regular sack sewer on one of these spouts.

A. Yes, sir.

Q. And that you were only spelled off or relieved during the noon hour.

A. Yes, sir. [1336]

Q. Is that right?

A. That is right, unless the seed run out in the gin.

Q. All right.

Now, was there anybody else who was the regular sack sewer at the other spout right next to you?

(Testimony of Stephen J. Griffin.)

A. Well, I don't think so; same as I was, if there was seed to run, we would run seed.

Q. Who was it that worked there during the week ending the 17th?

A. Morris and George Andrade.

Q. Who else? A. And myself.

Q. You don't understand me, Mr. Witness.

A. Horace Hastings worked part of the time.

Q. At the other spout?

A. At the other spout. He worked part of the time if we had two spouts running.

Q. All right.

A. And sometimes only one spout was running.

Q. I see.

Now, who worked with you, if anyone, on your spout? A. Morris, Mr. Morris.

Q. All right.

Now, how about November 15th? Do you remember who worked those two spouts on that day? [1337]

A. Yes. I did, helped work one. I don't remember who was on the other.

Q. Who was it helped you on yours?

A. Morris.

Q. And who was working the other one on that day?

A. Well, I don't remember; don't remember just who it was. George Andrade was working on one of them.

Q. Do you remember who helped him?

(Testimony of Stephen J. Griffin.)

A. I don't remember who it was helped him.

Q. Have you given us the names of everyone who worked at those positions at those two spouts?

A. Yes.

Q. During that week? A. Yes.

Mr. Clark: May I see Board's Exhibit 3?

(The document referred to was passed to Mr. Clark.)

Mr. Clark: Pardon me just a minute, Mr. Examiner. (Examining document)

Q. Now, Mr. Griffin, I want you to—I want to again show you the record which has been marked Board's Exhibit No. 3, and particularly directing your attention to the sheet which is headed with your name, and I will ask you whether it isn't a fact that for the week ending August 11, 1938, you received a total payment of \$8.75.

A. Well now, that is back until I couldn't remember. [1338]

Q. You have no recollection on that?

A. I don't recollect, no.

Q. And then for the week ending October 13th you received a total payment of \$10.40?

A. No, I couldn't state that for a fact because I don't remember the checks that I received.

Q. Well, were there some weeks during the period you have described as working at the Boswell plant in the fall of 1938 in which you received payments as low as \$8.75 or \$10.40?

A. For a week's work? [1339]

(Testimony of Stephen J. Griffin.)

Q. For a week's work at the end of the work week?

A. Well, I don't remember; not for a whole week's work, no.

Q. Well, when you came to get your pay check at the end of any week during the period commencing August 1938 up to November 17th, 1938, do you remember any occasion when the check you received was as low as \$10.00?

Mr. Mouritsen: I object to that as already asked and answered.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Do you remember whether or not, for the week ending October 27th, 1938, or rather for the week ending November 3rd, 1938, your check was in the sum of \$24.80?

A. No, I don't remember just the amount. No.

Q. Do you remember any occasion during the fall of 1938 when you were working at the Boswell plant when the check which you received at the end of the work week was as low as \$24.80?

A. Well, no, I don't remember the checks. I got them and spent them, so if I got the check why, whatever amount it was, I cashed the check and spent it, so I didn't keep any tab on the check.

Q. You didn't keep any tab on the amount of payments either, is that right?

A. The amount of payment?

Q. Yes. [1340]

(Testimony of Stephen J. Griffin.)

A. No. I could estimate roughly what I earned during the week.

Q. Were there certain weeks during that period of time, Mr. Griffin, when you did not work on several days?

A. No, there was not. There could have been possibly one Sunday, a few Sundays that way I didn't work, but week days I did work.

Q. Is it your testimony that during the fall of 1938 from approximately the 1st of August clear up to the 17th day of November, you worked at least 12 hours on each and every week day?

A. No, I didn't say that. I said that I worked from 11 to 12 hours.

Q. Let me amend my question as follows:

Is it your testimony, Mr. Griffin, that continuously from the 1st of August, 1938, up to November 17th, 1938, you worked at least 10 or 11 hours on each week day?

A. Well, that is the best of my memory.

Q. And that you received a payment continuously at the rate of 40 cents an hour for that work?

A. To the best of my memory, yes.

Q. This, of course, this work I am talking about is the work performed by you at the Boswell plant here in Corcoran?

A. The Boswell plant.

Q. Is that correct? [1341] A. Yes, sir.

Q. This hay baling you did was on contract, wasn't it?

(Testimony of Stephen J. Griffin.)

A. Well, it was—they told me to bale the hay, yes.

Q. Then you billed them for it at a certain rate?

A. No, they usually fixed the rate themselves.

Q. All right.

But they paid you a certain rate based upon the amount of hay you baled? A. Yes, sir.

Q. I think you told us if you got any outside jobs in extra time that you took them?

A. Yes.

Q. Is that right?

A. With the permission of the Company, if they called me back, I should come back any time they called me.

Q. I see.

Where did you do this hay baling?

A. On the Boswell ranch.

Q. I said where? A. Where?

Q. Where?

Mr. Mouritsen: Now, may counsel be instructed to follow the question? The witness has already answered the question counsel asked him.

Mr. Clark: I don't think so. I will submit it. [1342]

Trial Examiner Lindsay: You asked him where he did it, and he said on the Boswell ranch.

Mr. Clark: I say "where" again.

Trial Examiner Lindsay: Sustained.

(Testimony of Stephen J. Griffin.)

Mr. Clark: Well, may I have the witness locate the Boswell ranch? Where he did this baling?

Trial Examiner Lindsay: If you put it in a question so he understands.

Mr. Clark: That was my question, Mr. Examiner.

Q. Where is this ranch that you did the hay baling on?

A. It is about—between two and three miles North of town.

Q. I see.

A. South of town, excuse me. I will change that.

Q. I see.

On your direct examination——

Trial Examiner Lindsay (Interrupting): I must just call your attention, Mr. Clark, to one thing. Three different times you repeated the word “where,” and that constituted your question. When I sustained the objection and told you that you might ask it if you formed the question so it is understandable, it is not necessary to come back and mis-state the facts.

Now, proceed.

Mr. Clark: Did I understand your Honor to say that I mis-stated a fact?

Trial Examiner Lindsay: Yes. You said that in response to [1343] my direction, that that was your question, and your question was the word “where.”

Mr. Clark: The record——

Trial Examiner Lindsay (Interrupting): All I

(Testimony of Stephen J. Griffin.)

was trying to get was to have you state your question so that the witness would know what you are talking about.

Proceed.

Mr. Clark: Well, the record will show, your Honor, whether I am misstating any fact.

Trial Examiner Lindsay: Yes. It will show you are.

Mr. Clark: Yes, clearly.

Trial Examiner Lindsay: When I give a direction, I want it carried out.

Mr. Clark: Very well.

Trial Examiner Lindsay: I am not going to have any more insolence from anyone. Now, when I request a thing be done, then I want it done.

Mr. Clark: Now, may I proceed, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark) On your direct examination, Mr. Griffin, you told us about a meeting of the Union members which I think you placed as around the 15th or 16th of November?

A. Yes, sir.

Q. Do you remember that?

A. Yes, sir. [1344]

Q. And then am I correctly stating that you said the members of the Union were present at that meeting?

A. Yes, sir.

Q. Will you name them for us?

A. Well, Elgin Ely, Roland Martin, Johnston,

(Testimony of Stephen J. Griffin.)

Fat Ely, Elmer Eller, Lonnie Spear, George Andrade and the balance of the bunch.

Q. Who constituted the balance of the bunch, as nearly as you can remember? A. Powell.

Q. Powell? A. Yes, sir.

Q. What is Mr. Powell's nickname?

A. Coon.

Q. Is that all of his nickname?

A. As far as I know.

Q. Yes.

Who else, please?

A. Walter Winslow and O. L. Farr. That is as far as I remember.

Q. Where was this meeting held, please?

A. Mr. Farr's, O. L. Farr's house.

Q. During the time that you were working at Boswell's in the fall of 1938, did you see Mr. Gilmore on the Company property on any occasion? [1345] A. Well, I can't say that I did.

Q. You are positive of that?

A. Well, I don't remember seeing him. [1346]

Q. Now, I want to direct your attention to the testimony which you gave concerning the events of January 30, 1939. You have that in mind, have you?

A. Yes.

Q. What day of the week was that?

A. Well, I don't know; don't remember the day.

Q. You don't remember what day January 30th was? A. No, I don't.

(Testimony of Stephen J. Griffin.)

Q. Will you please name for us again the people whom you saw during that gathering while you were sitting there in your picket car?

A. Raymond Gilkey, Ralph Gilkey, Ralph Marshal, Loyd Liggett, Forrest Riley, "Doc" Sego; Elliott.

Q. What is his first name?

A. I don't know what his first name is.

Q. I see.

A. Ronald Squire, and two I didn't mention this morning, the one that runs a tractor company warehouse here—I don't know their names. They were there.

Q. How many of them are there?

A. Two here; one runs the business and the other is a salesman.

Q. I see.

Who else, please, that you can recollect?

A. Bob Wilbur and Bill Wilbur—their names is different [1347] but I don't know just the difference in their names—Walter Grisham, Clyde Nunley, Joe Mackey, E. C. Salyer, Salyer's brother.

Q. Also named Salyer, is that right?

A. Also named Salyer; his son Everett and "Slim" Jones; Ronald Bailey. That is all I can remember right now.

Q. Well, just take as much time as you need, Mr. Griffin, and give us any others you remember now, if you do.

A. (Pause) Clifford Hammond. That is all I can remember now.

(Testimony of Stephen J. Griffin.)

Q. Now, how many people——

A. (Interrupting) Ralph Gilkey.

Q. What is that?

A. Ralph Gilkey. I believe I named him.

Q. I believe you named him.

How many people were there in this crowd on that morning, as near as you can estimate it?

A. My estimation is between 150 and 200.

Mr. Clark: That is all.

Mr. Mouritsen: No further questions?

Mr. Clark: No further cross examination.

Mr. Mouritsen: Nothing further.

May the witness be informed that he may now be excused and leave the hearing room to return to his work?

Trial Examiner Lindsay: Yes. You are excused now. If [1348] there is no further use for this witness, then he is excused for good, is that right? Subject, however, to——

Mr. Clark (Interrupting): Mr. Examiner, may I ask him one more question which I overlooked, before we let him go for good?

Trial Examiner Lindsay: Well, yes.

Mr. Clark: Will you take the stand?

Trial Examiner Lindsay: He can answer from right there if it is just one question.

Mr. Clark: It may be more than one, depending upon his answer.

Q. Mr. Griffin, did you ever apply for work again at Boswell's after the 17th? A. No.

(Testimony of Stephen J. Griffin.)

Q. Did you attend a union meeting on or about November 19th at which a boycott was declared against Boswell? A. Yes, sir.

Q. And have you since that time been participating in that boycott? A. Yes, I have.

Q. Now, have you ever had reported to you in any union meeting or gathering a conversation which took place on November 28th between Mr. Prior and Mr. Robinson of Boswell Company concerning the reinstatement of the union members?

A. No, I don't remember of that. [1349]

Q. In other words, did anyone ever tell you about any such meeting? A. No.

Q. Did Mr. Prior ever tell you what occurred at that meeting?

A. I don't remember whether he did or didn't.

Q. Are you simply following the attitude or action of the majority of your union with respect to going back to work at Boswell's?

Mr. Walsh: Objected to as immaterial and incompetent.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) You haven't gone back and applied for a job?

Mr. Mouritsen: I object to that as already asked and answered.

Trial Examiner Lindsay: Sustained.

Mr. Clark: That is all.

Mr. Mouritsen: Nothing further.

(Witness excused.)

Mr. Mouritsen: Call Eugene Clark Ely.

EUGENE CLARK ELY,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows: [1350]

Direct Examination

Q. (By Mr. Mouritsen) Will you state your name, please. A. Eugene C. Ely.

Q. Where do you live?

A. Corcoran, California.

Q. Have you ever worked for the J. G. Boswell Company? A. I have.

Q. When did you first start to work for that company? A. In September of 1937.

Q. What type of work did you do at that time?

A. I helped the electrician.

Q. What rate of pay did you receive?

A. 35 cents per hour.

Q. What hours per day did you work?

A. 11 hours.

Q. How long did you continue to help the electrician? A. For about four months.

Q. Then what type of work did you do for the company?

A. I was watchman in the cotton yard for about two weeks.

Q. Was there any change in your rate of pay?

A. No.

Q. And did you work 12 hours a day on that job? A. I did, seven days a week.

(Testimony of Eugene Clark Ely.)

Q. What type of work did you next do for the company? A. I went in the oil mill. [1351]

Q. What type of work did you do there?

A. Just cleaning up and keeping the expellers cleaned out and beating the stuff that came out of the expellers back through, pushing the wheel bar.

Q. How long did you continue to do that type of work? A. Until about March 24, 1938.

Q. What occurred on that date?

A. I was laid off.

Q. Who laid you off?

A. Julius Hammond.

Q. And did you work for the company after that time?

A. Yes, I worked a short time after that, two weeks back, running planting seed.

Q. And when did that occur?

A. I don't remember just what month that was in.

Q. And after that two weeks' work did you later return to the employment of the company?

A. Yes, some time after harvest I baled straw for the company two and three weeks.

Q. And do you recall the period when that occurred?

A. Around June or July. I wouldn't be sure.

Q. And after that time did you return to the employment of the company again?

A. In October 1938.

Q. What type of work did you do then? [1352]

(Testimony of Eugene Clark Ely.)

A. I was running a cotton drier.

Q. What rate of pay did you receive?

A. For about four days, 35 cents an hour.

Q. And did you receive an increase in pay?

A. 40 cents an hour.

Q. An increase to 40 cents an hour?

A. Yes.

Q. How long did you continue to run the cotton drier?

A. Until about December of 1938.

Q. Then what type of work did you do?

A. I worked for Rube Lloyd, construction, setting pumps, and doing carpenter work, helping.

Q. How long did you continue to do that type of work?

A. Until January 30th, 1939.

Trial Examiner Lindsay: What was the date?

The Witness: January 30th, 1939.

Q. (By Mr. Mouritsen) Now, what occurred—with reference to your employment with the company what occurred on January 30th, 1939?

A. The day I was laid off?

Q. Well, I will ask you whether or not you were laid off on January 30, 1939?

A. I was. [1353]

Q. And by whom were you laid off on that occasion?

A. I went and seen Rube Lloyd. I had been working for him about two months, and I asked him——

Mr. Painter (Interrupting): Just a moment, your Honor. If this calls for a conversation, we will object to it as hearsay, and not binding on any of the Respondents.

(Testimony of Eugene Clark Ely.)

Mr. Mouritsen: We will get the foundation laid.

Trial Examiner Lindsay: Are you withdrawing your question?

Mr. Mouritsen: Yes, I will withdraw the question while I lay the foundation.

Q. Prior to this conversation on or about January 30th, 1939, had you been away from work at the plant?

A. Yes, on Saturday before the Monday I was laid off, I came down and——

Q. (Interrupting) Let's get that foundation.

Did you see anybody on this Saturday about remaining away from work? A. Yes.

Q. Whom did you see? A. Rube Lloyd.

Q. And was he the man who, prior to that time, had laid you off and had told you when to come to work? A. He had.

Q. Had he, prior to that time while you worked for him, given [1354] you orders regarding your work? A. He did.

Q. Did you carry such orders out?

A. I did.

Q. Did he do that on a number of occasions?

A. He did.

Q. Now, do you recall where you had this conversation with Rube Lloyd on that day, if you had such a conversation? A. It was in the yard.

Q. Was anyone else present? A. No.

Q. What did Mr. Rube Lloyd say to you on that occasion, and what did you say to Rube Lloyd?

(Testimony of Eugene Clark Ely.)

Mr. Painter: Objected to as hearsay, not binding on these Respondents, and no authority shown for Rube Lloyd to speak for any of the Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: I told Rube Lloyd that I didn't feel like working that day, that I had hurt my shoulder the day before. And he said that was perfectly all right, to take off the day, it was raining and there wouldn't be much doing anyhow.

Q. (By Mr. Mouritsen) Now, was there any further conversation at that time?

A. No, oh—he told me——

Mr. Painter (Interrupting): The same objection, your Honor. [1355]

Trial Examiner Lindsay: The same ruling.

The Witness: He told me to report back to work Monday morning.

Q. (By Mr. Mouritsen) Was that the end of the conversation? A. That was.

Q. Now, on the Sunday following that conversation with Rube Lloyd, did you attend a Union meeting in Bakersfield? A. I did.

Q. And how did you reach that—or, how did you go to the meeting in Bakersfield?

A. With R. K. Martin, Elgin Ely and W. R. Johnston.

Q. Did you go by car? A. Yes.

Q. During the course of your journey to Bak-

(Testimony of Eugene Clark Ely.)

ersfield, did you pass the J. G. Boswell plant here in Corcoran? A. We did.

Q. Will you state what occurred at the time when you passed the plant?

A. There were several of the boys out in a box car unloading gravel, the employees of the J. G. Boswell Company.

Q. Will you state whom you saw doing that work?

A. Jack Owens and Clarence Sitton and Sam Robinson.

Q. Did they look at you while you were passing the plant? A. Yes.

Q. Where was this—strike that. [1356]

Then did you proceed to the Union meeting in Bakersfield? A. I did.

Q. Where was that meeting held?

A. In Bakersfield, in the Teamsters' Hall.

Q. Prior to your going into the meeting in Bakersfield, did you stop in front of the hall where the meeting was held? A. Yes.

Q. Will you state what occurred at that time?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Myself and Mr. Prior, Elgin Ely, and W. R. Johnston, and R. K. Martin, and several other fellows from the Bakersfield Local were standing out in front of the Teamsters' Hall in Bakersfield, and Mr. Bill Boswell, he came by

(Testimony of Eugene Clark Ely.)

driving about 15 miles an hour; and he gave us the once-over as he went by.

Q. (By Mr. Mouritsen) When you say he gave you the once-over, what do you mean by that?

Mr. Painter: I move to strike out the answer as not responsive to the question, and calling for a conclusion of the witness.

Trial Examiner Lindsay: It may remain, and you may proceed.

Q. (By Mr. Mouritsen) Now, Mr. Ely, when you state he gave [1357] you the once-over, what do you mean by that?

A. Well, he was looking straight at me from the time he came in sight until the time he got out of seeing distance.

Q. Will you state whether or not there is a sign on the building of the Teamsters' Local in Bakersfield? A. Yes.

Q. Will you state in substance what the sign sets out?

A. It is the Teamsters' Hall, Local No. 87.

Q. And after that—after the occurrence you have described, did you attend the meeting?

A. I did.

Q. Now, on or about January 30th, 1939, did you return to work at the J. G. Boswell plant in Corcoran? A. I did.

Q. Approximately what time in the day?

A. About 6:30 in the morning.

Q. Did you have a conversation with anyone at that time? A. I did.

(Testimony of Eugene Clark Ely.)

Q. With whom? A. Rube Lloyd.

Q. Where did the conversation take place?

A. Out in the yard.

Q. Was anyone else present other than yourself and Rube Lloyd? A. No.

Q. Will you state what Mr. Rube Lloyd said to you on that [1358] occasion, and what you said to Mr. Rube Lloyd?

Mr. Painter: Objected to as hearsay, not binding on these Respondents, and no authority shown for Rube Lloyd to speak for the Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: I walked up to Mr. Lloyd and asked him what would I do that day.

And he said, "There is nothing else to do. We are all through."

Q. (By Mr. Mouritsen) Do you recall any further conversation that took place at that time?

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: Not with Mr. Lloyd.

Q. (By Mr. Mouritsen) After that time, did you have a conversation with Gordon Hammond?

A. I did.

Q. About how long after your conversation with Rube Lloyd did your conversation with Gordon Hammond take place?

A. About thirty minutes or an hour.

Q. Where did the conversation with Gordon Hammond take place?

(Testimony of Eugene Clark Ely.)

A. In the office of the J. G. Boswell Company.

Q. Was anyone else present other than yourself and Gordon Hammond? A. No. [1359]

Q. Will you state what you said to Mr. Gordon Hammond, at that time, and what he said to you?

A. I told him that I had been laid off, and he said that I—did I consider myself laid off.

I said, "Yes. Rube Lloyd has been giving me my working orders for the past two months."

And he said, "Well. I don't know. There might be some work to do later on."

Q. Is that all of the conversation that you can recall? A. Yes.

Q. What did you do at that time?

A. I was there until about 8:30 and I came back to town.

Q. Now, on or about—strike that part of the question already given.

Since January 30th of 1939, have you had any other employment? A. I have not.

Q. Have you earned any money by working, since that time? A. I have not.

Q. Are you now employed? A. No.

Q. If the National Labor Relations Board did order your reinstatement with back pay, would you be willing to accept such employment with the J. G. Boswell Company? A. I would. [1360]

Q. Now, during the course of your employment with the J. G. Boswell Company, did you become a member of a labor organization? A. I did.

(Testimony of Eugene Clark Ely.)

Q. Can you give us the approximate date when you signed an application for membership?

A. January 2nd, 1939.

Q. And of what organization did you sign an application for membership?

A. The American Federation of Labor.

Q. And any Local of that organization?

A. It was named the Cotton Products and Grain Mill Workers' Union, Local No. 21798.

Q. And after January 2nd, 1939, were you initiated into membership in that organization?

A. January 19th, 1939.

Q. After you signed your application for membership in that Union, did you associate in and about Corcoran with other members of that Union?

A. I did.

Q. With what other members of that Union?

A. R. K. Martin, Elgin Ely, W. R. Johnston, O. L. Farr, Boyd Ely, "Coon" Powell.

Q. Now, directing your attention to the date on or about January 30th, 1939, what did you do after you returned home on [1361] that morning.

A. I didn't go home. I was driving through town and seen W. R. Johnston, and he got in the car with me and we was riding around in town.

Q. During the course of your riding around, did you ride out in the vicinity of the J. G. Boswell plant?

A. I did.

Q. Did you observe anything at the time when you rode in the vicinity of the J. G. Boswell plant?

(Testimony of Eugene Clark Ely.)

A. We were driving thataway when we seen a string of cars, about fifty or seventy-five, I guess, coming from down the railroad track; and they turned and went in the direction of the J. G. Boswell Company.

Q. What did you do at that time?

A. I was in a crowd for awhile going that way. I turned my car around and went to town and picked up R. K. Martin.

Q. Then what did you do?

A. We went back down to the plant.

Q. Will you state what you observed in the vicinity of the J. G. Boswell plant, if you observed anything?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: They was cars parked all over the side of the roads and around the scale office of the Boswell plant, [1362] and they was around, I would say, around 150 to 200 men around the picket car.

Q. Did you recognize any of the men around the picket car?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial, and may my objection run to this entire transaction?

Mr. Walsh: So stipulated.

Mr. Mouritsen: So stipulated.

Did the witness answer that? [1363]

(Testimony of Eugene Clark Ely.)

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I did.

Q. (By Mr. Mouritsen) Will you state the names of as many of the men you can recall that you saw around the picket car on that occasion?

A. Boyd Ely, E. C. Salyer, Forrest Riley, Russell Slaybough, and Robert Wilbur, Gerald Snyders, Slim Jones.

Q. Do you know Slim Jones' first name?

A. No, I don't.

Q. Continue.

A. Beale Hanson, and Archer—I don't know his first name. He runs a trucking transportation here in town.

Clifford Hammond, and Hubbard; I don't know his first name.

Q. Do you know what work he did at that time?

A. Well, he was working for the J. G. Boswell Company.

Q. Can you give us the names of any other people that you recall seeing on that occasion?

A. Roy Filcher. That is about all that I can recall at the present time.

Q. Very well.

Now, will you state what you did and observed when you saw this crowd of men gathered around the picket car? [1364]

A. We drove up as close as possible—R. K.

(Testimony of Eugene Clark Ely.)

Martin, W. R. Johnston, and I—as close as possible to the picket car as we could.

Q. Was anything said at that time?

Mr. Painter: Objected to as hearsay and not binding on any of these respondents.

Trial Examiner Lindsay: He may answer.

Mr. Painter: And may it be deemed that my objection runs to any conversation in this particular matter?

Mr. Mouritsen: So stipulated.

Mr. Walsh: So stipulated.

Trial Examiner Lindsay: You may answer.

The Witness: Yes. When we drove up there was several of them asked—they said, “What is this? Some more of them?”

And someone in the crowd spoke up and said, “Yes, I have seen that bunch before.”

Q. (By Mr. Mouritsen) Did you recognize any of the men who made any of those statements?

A. Loyd Liggett, and Bob Wilbur.

Q. Continue. Was anything further said at that time? A. Yes.

Q. By whom was it said, if you recall?

A. Forrest Riley and E. C. Salyer, Russel Slaybough, and Roy Filcher came up to the side that I was sitting on [1365] and opened the car door.

Q. Did they say anything at that time?

A. Yes.

Q. What did they say?

(Testimony of Eugene Clark Ely.)

A. They asked us was we some more of the union boys. And I said that we was.

Q. Was any further conversation had at that time?

A. Forrest Riley spoke up and said, "Well, we don't aim to have this God damned A. F. of L. in Corcoran."

Q. And did anyone else say anything further at that time?

A. Yes. E. C. Salyer said, "Put them out. What the hell are we waiting on?"

Q. At that time was anything said by R. K. Martin? A. Yes.

Q. Now, where was Mr. Martin at that time?

A. He was sitting beside me by the steering wheel of the car.

Q. And was W. R. Johnston present at that time? A. Yes.

Q. Where was he?

A. He was in the back seat.

Q. Now, will you tell us what R. K. Martin said at that time?

Mr. Painter: Your Honor, I would like to place a further objection to this question. It is self-serving. [1366]

Trial Examiner Lindsay: He may answer.

The Witness: Mr. Martin said, "Well, just who is doing this anyway?"

Q. (By Mr. Mouritsen) And did anyone make a reply to that?

(Testimony of Eugene Clark Ely.)

A. Yes, Loyd Liggett and E. C. Salyer, Roy Filcher, and Robert Wilbur.

Q. What did they say?

A. They said, "We, the Associated Farmers of Kings County."

Q. Was anything further said?

A. Mr. Martin said, "That is all I want to know. Let's go to town, boys."

Q. At that time was anything said about the number of people present? A. Yes.

Q. Do you recall by whom that was said?

A. No, there was some said we represented 200. And a voice back in the crowd said, "No, we represent—there is 300 farmers in this bunch, and we represent 1,000 more; and we don't aim to have this God damned A. F. of L. picketing in Corcoran."

Q. Do you recall whether or not anything further was said at that time?

A. No, I don't. We left and came back to town.

Q. Do you know whether or not at that time, at or about the time you left, the picket car left? [1367]

A. It didn't show up until about 10 or 15 minutes after we came down to Mr. Martin's house.

Q. And were you present at Mr. Martin's house when the picket car came back?

A. I was.

Mr. Mouritsen: You may inquire.

Trial Examiner Lindsay: We will have a short recess; a ten-minute recess.

(Testimony of Eugene Clark Ely.)

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Painter: Shall I proceed, your Honor?

Trial Examiner Lindsay: Yes.

Cross Examination

Q. (By Mr. Painter) Mr. Ely, how old are you?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Painter) I believe I understood your testimony, your direct testimony, that you worked during 1938 up until about March 24th. That is what you said, isn't it? A. Yes.

Q. Will you tell us what type of work you did in that period of time?

A. Up until the 24th? [1368]

Q. Yes.

A. I worked in the mill up until the 24th.

Q. Were you in the mill all of the time?

A. No.

Q. What did you do when you were in the mill?

A. I pushed the wheelbarrow and cleaned up the extra that came out of the expellers and fed them back through. They went back through the expellers again.

(Testimony of Eugene Clark Ely.)

Q. And was that the only type of work that you did in the mill? A. In the mill, yes.

Q. What other type of work did you do during that period up to March 24th?

A. In '38?

Q. Yes.

A. Well, I wouldn't be positive, but I think it was in '38 that I carried a clock in the yard, a watchman.

Q. And you think it was part of that period there? A. I wouldn't be sure.

Q. Now, did you do any other type of work during that time?

A. I helped the electrician when I first started.

Q. Was that the period between January and March of 1938? A. In '37.

Q. I am talking about 1938.

Now, in 1938, is it your testimony that you worked in [1369] the mill as you have described and this other work that you just mentioned a moment ago?

A. That is all I recall from January until March 24th of 1938.

Q. And then you were laid off at that time, were you? A. For a short time.

Q. Well, as a matter of fact, you came back to work about May, didn't you, of 1938, after that lay-off?

A. I don't remember what month that was.

Q. Well, it would be approximately there, would it not?

(Testimony of Eugene Clark Ely.)

A. I would say somewhere about there.

Q. At that time you just worked a couple of weeks, I think you said?

A. A couple or three weeks.

Q. Now, will you tell us what type of work you did at that time?

A. Running planting seed. I worked in the seed house emptying sacks of seed into the conveyor and carried it in and cleaned it.

Q. Did you do anything else during that period of time? A. No.

Q. Now, to refresh your memory, Mr. Ely, that was between the 5th of May and the 19th of May, was it not? A. I don't recall.

Q. It would be approximately that period, though, would it [1370] not? A. It could be.

Q. Then you were laid off again, is that correct? A. That is right.

Q. And you returned to work the next time along about July 7th? Do you recall that?

A. June or July. I wouldn't be positive.

Q. And then again you just worked a matter of a week or so, isn't that right?

A. Two or three weeks.

Q. And what type of work did you do during that period? A. Baling straw.

Q. Did you do any other type of work?

A. Not at that time.

Q. Now, as a matter of fact, Mr. Ely, that would be—I want to refresh your recollection—that would

(Testimony of Eugene Clark Ely.)

be between about July 7th and July 21st? Would that be about correct? A. I couldn't say.

Q. Well, it would be approximately that period of time? A. Somewhere along there, yes.

Q. Then you were employed again in October, I believe you testified? A. Yes.

Q. Now, what type of work did you do after that?

A. I was running a cotton drier. [1371]

Q. You ran a cotton drier? Anything else?

A. I ran a cotton drier up somewhere about December. Then I started to work for the construction gang.

Q. And you worked then during the month of November and during the month of December there at the plant, is that correct?

A. I don't know how far in December it was.

Q. You worked during the month of January, also, didn't you, at the plant?

A. Part of the time at the plant.

Trial Examiner Lindsay: You are talking about '39?

Mr. Painter: '39, in January.

Q. In other words, as I get your testimony, you worked during that period and you don't know whether you were laid off any intervals in there?

A. I was not.

Q. I see.

May I have that answer?

Trial Examiner Lindsay: During the month of January you are talking about, in 1939?

(Testimony of Eugene Clark Ely.)

Mr. Painter: Yes.

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Painter): When did you first attend a union [1372] meeting, Mr. Ely?

A. Well, I don't recall the first one I attended.

Q. Well, can't you give us an approximation of when it was?

A. It was some time after—I was in the house with O. L. Farr and several other union members, but I could not sit in on the meeting because I had not been initiated.

Q. Well, can you tell us what month that was?

A. January 1939.

Q. Had you attended any meetings or been in a house where a meeting was held at any time before that?

A. I was in the house where they had been held before then, yes.

Q. And when was the meeting where you were in the house prior to January?

Mr. Mouritsen: I object to the question upon the ground it is confusing.

Mr. Painter: I will reframe the question.

Q. When was the meeting which was held in a house where you were that occurred prior to January 1939? A. It was here in town.

Q. I say when?

A. I couldn't say exactly.

(Testimony of Eugene Clark Ely.)

Q. Well, can you tell us the month?

A. January 1939. [1373]

Q. Well now, just a moment. I asked you before January. Were you—I will withdraw that question.

Were you in the same house where a union meeting was held in January of 1939 at any time?

Mr. Mouritsen: I object to the question, Mr. Examiner. It is a double meaning question. It is unintelligible when you analyze the question. Was he ever in a house where a union meeting was held?

Mr. Painter: I will withdraw the question.

Q. Did you ever attend a gathering of union members before January of 1939?

A. Not that I recall.

Q. Now, who were these men that you said you went down to Bakersfield with?

A. R. K. Martin, W. R. Johnston, and Elgin Ely. [1374]

Q. You had associated with these men considerably before that time, had you not?

A. With my brother and W. R. Johnston.

Q. As a matter of fact, you had two brothers that were in the Union long before that, isn't that correct? A. Yes.

Mr. Mouritsen: Long before what?

Q. (By Mr. Painter): Long before this trip to Bakersfield? A. Yes.

Q. Boyd Ely was one, and Elgin Ely was the other, is that right? A. Yes.

(Testimony of Eugene Clark Ely.)

Q. And, as a matter of fact, you had been around town with them and with Mr. Martin and Mr. Johnston long before you ever went to this Bakersfield meeting?

A. With Mr. Johnston and Elgin Ely. We all stayed at the same place, and we went in the same automobile.

Q. Now, which side of town do you live on, Mr. Ely?

A. I lived outside of the city limits.

Q. In which direction?

A. West a mile, and north about three-quarters of a mile.

Q. And as you came to this Bakersfield meeting I suppose you came in this main road from the West of the town, is that right?

A. The morning we came down to Mr. Martin's house, yes.

Q. Your trip wouldn't take you past the plant, would it? [1375]

A. Yes.

Q. To go to Bakersfield? A. Yes.

Q. Which road do you take from the town?

A. Down by the Justice of the Peace. It is a jail house and you turn and go south. The road goes about Southeast, right down by the J. G. Boswell Company plant.

Q. All right.

Now, referring your attention to the morning of January 30th, and your conversation with Gordon Hammond on that morning, will you tell us

(Testimony of Eugene Clark Ely.)

where, in what portion of the office, that conversation took place?

A. It was in the south end of the office in what some of the other boys have called the waiting room.

Q. And, Mr. Ely, at the time you came in there, do you recall Gordon Hammond telling you to go out and load some cotton? A. I do not.

Q. Do you recall any statement made by Gordon Hammond regarding the loading of cotton that morning? A. No.

Q. Isn't it a fact, Mr. Ely, that Mr. Hammond told you to go out and load some cotton?

A. He said there might be something to do later on.

Q. And didn't he mention specifically loading cotton? A. No. [1376]

Q. And is it not the further fact, Mr. Ely, that he made such a statement telling you to go out and load the cotton, and said, "Come on, let us go," and walked out the door?

A. No, he did not.

Q. You are sure of that?

A. I am positive.

Q. Did you go out on the picket lines that morning?

A. I wasn't on the picket line, except at 10:00 o'clock that morning.

Q. When did you leave the Boswell plant?

A. About 8:30 in the morning.

(Testimony of Eugene Clark Ely.)

Q. And after that, isn't it a fact that you went out and stayed on the picket line immediately upon leaving the plant? A. I did not.

Q. Have you ever applied for work at the Boswell Company since January 30th?

A. No. I didn't want to get thrown out of the plant.

Mr. Painter: I move, your Honor, that that part following the "No," be stricken as not responsive.

Trial Examiner Lindsay: It may go out.

Mr. Painter: That is all.

Redirect Examination

Q. (By Mr. Mouritsen): Mr. Ely, do you have a brother who works at the plant who is not a member of the Union? A. I have. [1377]

Q. And who is that? A. Jack Ely.

Mr. Mouritsen: Nothing further.

Mr. Clark: May I ask a question or two, your Honor?

Trial Examiner Lindsay: Yes.

Recross Examination

Q. (By Mr. Clark) Mr. Ely, did I understand you to say on your cross examination that during the fall of 1938 you were living with one of your brothers and with another man?

A. I was staying home with my parents, and my brother was staying home and W. R. Johnston was boarding with my folks.

(Testimony of Eugene Clark Ely.)

Q. I see.

Which brother was that? A. Elgin Ely.

Q. I see.

Now, during the times that you were laid off from work at the Boswell plant during 1938, did you go to the plant to apply for work?

A. I did not.

Q. Did the plant send someone to your home to ask you to come back? A. They did.

Q. Did Gordon Hammond ever come on any of those occasions to put you back on?

A. In 1938 he come, in the summer he came to my house. [1378]

Q. I see.

And he came to the house where you were living with this brother and with Mr. Johnston, is that right? A. And my folks, yes.

Mr. Clark: That is all.

Mr. Mouritsen: No further examination.

Trial Examiner Lindsay: I have just one question.

Q. Did anyone come and ask you to come back to work since January 30th? A. No.

Q. Of 1939? A. No.

Trial Examiner Lindsay: That is all.

(Witness excused.)